

COMMUNITY RESOURCES AGENCY

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Director

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AGENDA TUOLUMNE COUNTY PLANNING COMMISSION BOARD OF SUPERVISORS CHAMBERS, 4TH FLOOR COUNTY ADMINISTRATION CENTER 2 SOUTH GREEN STREET

August 5, 2015

6:00 p.m.*

PLANNING COMMISSION BUSINESS: 6:00 p.m.

1. Reports from Commissioners and Staff
2. Report from the Board of Supervisors Planning Committee Representative
3. Report from the Agricultural Advisory Committee Representative
4. Minutes of the Meeting of July 1, 2015
5. Consideration of approving a response to the findings and recommendations in the 2014-2015 Grand Jury Report regarding the Tuolumne County Planning Commission.

PUBLIC COMMENT: 15 minutes

The public may speak on any item not on the printed agenda. No action may be taken by the Commission.

PUBLIC HEARING: 6:00 p.m.

NEW ITEMS:

1. ROSS/FINICLE

1. Ordinance for Zone Change RZ13-005 to rezone Assessor's Parcel Number 46-060-07, a 0.45± acre parcel, from C-1 (General Commercial) to C-S (Special Commercial) and Assessor's Parcel Number 46-070-05, a 0.63± acre parcel from C-1:MX (General Commercial:Mobilehome Exclusion Combining) to C-S under Title 17 of the Tuolumne County Ordinance Code.
2. Conditional Use Permit CUP14-009 to allow construction of three new buildings of 2,080±, 1,600±, and 800± square feet and allow a 600± square foot, 14-day outdoor storage holding area on the 0.63± acre parcel (Assessor's Parcel Number 46-070-05).

The project site is located at 24635 State Highway 108 and 20162 Chief Fuller Way on the south side of State Highway 108, approximately 900 feet east of the intersection of State Highway 108 and Chief Fuller Way, in Mi-Wuk Village. Within Section 35, Township 3 North, Range 16 East, Mount Diablo Baseline and Meridian. Assessor's Parcel Numbers 46-060-07 and 46-070-05.

*** The doors to the Administration Building will be opened at 5:30 p.m.**

ADJOURNMENT

The Minutes, Staff Reports, and environmental documents for the items referenced in this Agenda are available for review at the Tuolumne County Community Resources Agency, 48 West Yaney, Sonora, California, and online at www.tuolumnecounty.ca.gov.

Any other materials related to the items referenced in this Agenda that are provided by the County to the Planning Commissioners prior to the meeting are available for review at the Tuolumne County Community Resources Agency, 48 West Yaney, Sonora, California, and will be available at the meeting. Any materials provided to the Planning Commissioners during the meeting by the County will be available for review at the meeting, and materials provided by the public will be available for review at the Community Resources Agency the day following the meeting. In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Community Resources Agency at (209) 533-5633. Notification 48 hours prior to the meeting will enable the County to make reasonable arrangements to ensure accessibility to this meeting (28CFR Part 35 ADA Title II).

SURFACE/MINERAL

RIGHTS OWNER: Christopher R. Ross and Mildred J. Ross

APPLICANT: Tim Finicle

DATE: July 16, 2015

PROJECT AND LOCATION

PROJECT

- DESCRIPTION:**
1. Ordinance for Zone Change RZ13-005 to rezone Assessor's Parcel Number 46-060-07, a 0.45± acre parcel, from C-1 (General Commercial) to C-S (Special Commercial) and Assessor's Parcel Number 46-070-05, a 0.63± acre parcel from C-1:MX (General Commercial: Mobilehome Exclusion Combining) to C-S under Title 17 of the Tuolumne County Ordinance Code.
 2. Conditional Use Permit CUP14-009 to allow construction of three new buildings of 2,080±, 1,600±, and 800± square feet and allow a 600± square foot, 14-day outdoor storage holding area on the 0.63± acre parcel (Assessor's Parcel Number 46-070-05).

LOCATION: The project site is located at 24635 State Highway 108 and 20162 Chief Fuller Way on the south side of State Highway 108, approximately 900 feet east of the intersection of State Highway 108 and Chief Fuller Way, in Mi-Wuk Village. Within Section 35, Township 3 North, Range 16 East, Mount Diablo Baseline and Meridian. Assessor's Parcel Numbers 46-060-07 and 46-070-05. Within Supervisorial District Number 3.

GENERAL PLAN: The project site is designated Special Commercial (SC) by the Tuolumne County General Plan land use diagrams. Figure 1.6 of the General Plan indicates that the existing C-1 (General Commercial) zoning district is inconsistent with the existing SC land use designation. Figure 1.6 does indicate that the proposed C-S (Special Commercial) zoning district may be found to be consistent with the existing SC land use designation. The purpose of the SC land use designation is to provide for a variety of sales and service establishments which serve both the residents of Tuolumne County and its visitors in areas that do not have public water and sewer service. The proposed development of three new commercial buildings and limited outdoor storage may be found to be consistent with the SC land use designation.

ENVIRONMENTAL EVALUATION

On December 26, 1996, the Board of Supervisors certified an environmental impact report (EIR) for the Tuolumne County General Plan Update. The EIR for the General Plan Update was prepared as a program EIR under the provisions of Section 15168 of the *State CEQA Guidelines*. As a program EIR, the document adopted by the Board of Supervisors adequately addressed the potential environmental impacts associated with the comprehensive update of the County's constitution for growth, including certain implementation activities, and provided for streamlining of the

environmental review process for projects proposed subsequent to the certification of the EIR. The proposed zone change entails rezoning of the subject property to bring it into compliance with the General Plan. Rezoning of parcels for consistency with the General Plan was addressed in the Program EIR for the General Plan and; therefore, pursuant to Section 15162 of the *State CEQA Guidelines*, no additional review under the California Environmental Quality Act (CEQA) is required for the proposed zone change.

After reviewing the project and its setting the Environmental Coordinator for the County of Tuolumne has determined that Conditional Use Permit CUP14-009 is categorically exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to Section 15303 of the *State CEQA Guidelines* because the project consists of adding structures in an urbanized area not involving the use of significant amounts of hazardous substances, and each not exceeding 2,500 square feet in floor area, where the total floor area to be constructed does not exceed 10,000 square feet.

RECOMMENDATION

1. Community Resources Agency Staff recommends approval of Zone Change RZ13-005 based upon the following findings:
 - A. The proposed Zone Change is consistent with the Tuolumne County General Plan.
 - B. The proposed Zone Change is in accordance with the Tuolumne County Ordinance Code.
 - C. The project site is suited to the uses permitted under the proposed zoning district.
 - D. The zone change requires no further environmental review pursuant to Section 15162 of the State California Environmental Quality Act Guidelines.
2. Community Resources Agency Staff recommends approval of Conditional Use Permit CUP14-009 based upon the following findings and subject to attached conditions 1 through 59:
 - A. The proposed project is consistent with the Tuolumne County General Plan.
 - B. The proposed project is in accordance with the Tuolumne County Ordinance Code.
 - C. The proposed use will not overburden existing municipal facilities.
 - D. The size and terrain of the project site are suitable for the proposed use.
 - E. Under the circumstances of the particular case, the proposed use will not be substantially detrimental to the health, safety or general welfare of persons residing or working in the neighborhood of such proposed use, or be substantially detrimental or injurious to property and improvements in the neighborhood.
 - F. The project is categorically exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to Section 15303 of the State CEQA Guidelines.

GENERAL INFORMATION

Site Description

1. The project site is located at 24635 State Highway 108 and 20162 Chief Fuller Way on the south side of State Highway 108, approximately 900 feet east of the intersection of State Highway 108 and Chief Fuller Way, in Mi-Wuk Village. The project site consists of two parcels: Assessor's Parcel Number (APN) 46-060-07, a .45± acre parcel designated Special Commercial (SC) under the General Plan and zoned C-1 (Light Commercial) under Title 17 of the Tuolumne County Ordinance Code, and APN 46-070-05, a .63± acre parcel also designated SC under the General Plan and zoned C-1:MX (Light Commercial:Mobilehome Exclusion Combining) under Title 17. APN 46-060-07 is currently developed with a 5,184± square foot building and a 1,440± square foot building. The remainder of APN 46-070-05 contains an estimated 90% coverage of asphalt blacktop paving and is utilized primarily for parking. Both buildings are used for the storage of used office furniture. The larger building also serves as an office for the sale of the stored furniture.
2. Vegetation on the project site consists of cedar, black oak, sugar pine, ponderosa pine, bear clover and manzanita. The project site is approximately 4,600 feet above mean sea level. The property slopes slightly towards the south, with the highest point being along the State Highway 108 right-of-way and the lowest being along the southern property boundary.
3. The project site is located in an area of commercial development. The parcel west of the project site contains the Mi-Wuk Market, Laundry and Car Wash. Southeast of the site is a vacant building most recently operating as Jane's restaurant. On the north side of State Highway 108 is The Word of Life Fellowship facility. To the south are two parcels, owned by the property owner of the project site, which have frontage onto Chief Fuller Way. Access to the project site is provided by State Highway 108. An additional access is provided through the project site owner's property to the south to Chief Fuller Way. These two parcels are not part of the current project, and the project will be conditioned to prohibit access through these properties until a future entitlement addresses their commercial use and access.

Project Description

4. On April 23, 2013, the Community Resources Agency received an application for Site Review Permit SRP13-003 to allow three new buildings of 2,080±, 1,600±, and 800± square feet on a 0.63± acre parcel (APN 46-070-05) and Zone Change RZ13-005 to rezone APN 46-060-07, a 0.45± acre parcel, from C-1 (General Commercial) to C-S (Special Commercial) and APN 46-070-05 from C-1:MX (General Commercial:Mobilehome Exclusion Combining) to C-S under Title 17 of the Tuolumne County Ordinance Code. In discussion with the applicant it was determined that a limited area of outdoor storage would be required as a holding area for deliveries of new merchandise. The site plan was revised to indicate a 20' by 30' foot 14-day outdoor holding area. Outdoor storage may be permitted subject to first securing a Conditional Use Permit within the C-S zoning district. The application for Site Review Permit SRP13-003 was converted to Conditional Use Permit CUP14-009 to include outdoor storage.
5. The proposed buildings will consist of storage containers being used as building components that are connected by use of welding, bolts, or other approved structural connection. The resulting buildings will be permanently fixed to new foundations with no electrical, plumbing or HVAC (heating, ventilation, and air conditioning). The Building and Safety Division states that all independent storage containers are required to be attached to

one another to satisfy the classification as one structure. The 2,080± square foot building will consist of five 20' by 8' containers and four 40' x 8' containers. The 1,600± square foot building will consists of ten 20' by 8' containers. The 800± square foot building will consist of five 20' by 8' containers.

6. Pursuant to Tuolumne County Resolution 223-96, prior to the issuance of a discretionary land use entitlement, such as a Conditional Use Permit or Site Review Permit, a parcel must be zoned consistently with its land use designation according to the General Plan. The project site's land use designation is Special Commercial (SC) under the General Plan. Figure 1.6 of the Land Use Element of the General Plan indicates that the current C-1 and C-1:MX zoning districts are not consistent with the SC land use designation. The application for Zone Change RZ13-005 is to comply with Resolution 223-96 by rezoning APN 46-060-07 from C-1 to C-S and APN 46-070-05 from C-1:MX to C-S under Title 17 of the Tuolumne County Ordinance Code.

Project Site History

7. On November 20, 1997, the Planning Director issued Site Review Permit 97SRP-007 to allow the construction of a 36' x 40' (1,440 square feet) metal building adjacent to an existing 5,184± square building on APN 46-060-07. The building was initially to be used to store used office furniture, and then to be used for sales of the used furniture. The building permit was issued on November 3, 1997, but a Certificate of Occupancy has never been issued because the Conditions of Approval of Site Review Permit 97SRP-007 have not been met. The building is currently used as warehousing and general storage.
8. On May 2, 2006, an application was submitted for General Plan Amendment 05GPA-05 to amend the General Plan land use designation of a 0.23± acre parcel and a 0.22± acre parcel from MDR (Medium Density Residential) to GC (General Commercial); and to amend the General Plan land use designation of the current project site from SC (Special Commercial) to GC (General Commercial). The application also included Development Agreement 05DA-03 to allow the existence of 35 metal storage containers, on a 1.53± acre project site. This project included four parcels owned by the applicant, APNs: 46-060-07, 46-070-05, 46-101-06 and 46-101-07.
9. During the processing of General Plan Amendment 05GPA-05 and Development Agreement 05DA-03, several issues were identified including:
 1. The requirements of Site Review Permit 97SRP-007 had not been met such as:
 - a) An encroachment permit or proof of waiver from the California Department of Transportation for access onto State Highway 108.
 - b) A Landscaping Plan.
 - c) The required County Standard Fire Hydrant with adequate fire flow.
 - d) The propane tank shall have a minimum separation of 10 feet from buildings, public ways, and property lines.
 - e) Thirty three parking spaces on the project site.
 - f) The merger of the current project site to create a single parcel.
 2. The 36' by 40' structure permitted through Building Permit B97-001782 has never received its final certificate of occupancy from the Building and Safety Division. This was a requirement prior to any use of the structure.

3. Applications must be submitted to the Building and Safety Division to obtain building permits for the storage racks, any remaining storage containers and the other existing structures identified by the Building and Safety Division.
10. The application for General Plan Amendment 05GPA-05 and Development Agreement 05DA-03 was withdrawn on May 2, 2006.
11. The storage containers were eventually relocated to a property owned by the California Department of Transportation (Caltrans) on the southeast corner of the intersection of State Highway 108 and Sugar Pine Road. This location is approximately 0.4 mile west of the project site. The project will utilize twenty (20) 20' by 8' and four (4) 40' by 8' of these storage containers as building components for the three proposed structures.



The Storage Containers at their current location on the southeast corner of the intersection of State Highway 108 and Sugar Pine Road.

12. Several items of furniture are currently stored outside of the existing structures on the project site. Pursuant to Section 17.34.030(H) of the Ordinance Code, outdoor storage is only permitted in the C-1 zoning district subject to first securing a conditional use permit. The material currently stored outdoors will be stored in the proposed buildings. Outdoor storage will be confined to the 600± square foot outdoor storage holding area identified on the site plan. Each delivery shall be stored outside for sorting for a maximum of 14 days
13. The outstanding issues described above are all being addressed by the current project. All pertinent conditions of Site Review Permit 97SRP-007 have been incorporated into the Conditions of Approval of Conditional Use Permit CUP14-009.

Adjoiner Responses

14. Owners of property within 300 feet of the site were notified of the proposed project by mail. Project notices were sent on April 29, 2013 to 31 adjoining property owners. Four responses

were received, consisting of one in favor of the project and three opposed. The issues of concern are as follows:

- The property owner's properties on Chief Fuller Way looks like a junkyard and eyesore and has a negative impact on property values of neighboring properties.

In addition to the two properties that comprise the project site, the property owner also owns Assessor's Parcel Numbers 46-101-06 and 46-101-07. These parcels have frontage on Chief Fuller Way and are not part of the current project. The parcels appear to be used for vehicle storage at the current time. The property owner has agreed to a condition prohibiting access from the project site through APNs 46-101-06 and 46-101-07 to Chief Fuller Way until a future entitlement addresses their commercial use and access.

- Chief Fuller Way has developed as a residential street and a permanent warehousing facility is not in keeping with the character of the street.

The current project does not involve properties on Chief Fuller Way. A fence and natural vegetation, including ponderosa pines, are located along the property line of the two parcels on Chief Fuller Way and the two parcels that comprise the project site and serve as a visual buffer between these groups of parcels.

- Concerned about the appearance of the project and the type of people it will attract.

Approval of the proposed project would allow the materials currently store outside to be enclosed. Existing native vegetation will act as a visual buffer between the proposed buildings and State Highway 108. The bulk of the business is conducted online. Only the occasional buyer will drive to Me-Wuk Village to pick-up their purchase, most of the items are shipped to the buyer. The project will be conditioned to require approval of a Conditional Use Permit prior to the use of the site for additional outdoor storage and/or mini-storage facilities.

General Plan

15. The Tuolumne County General Plan states that the purpose of the Special Commercial (SC) land use designation is to provide for a variety of sales and service establishments which serve both the residents of Tuolumne County and its visitors in areas that do not have public water and sewer service. This designation is found primarily along highway corridors to provide commercial facilities that are easily accessible to the County's tourists. The project site is provided public water service by the Mi Wuk Mutual Water Company and public sewer service by the Tuolumne Utilities District.
16. Figure 1.6 of the General Plan indicates that the proposed C-S (Special Commercial) zoning may be found to be consistent with the Special Commercial (SC) land use designation of the project site.
17. General Plan Implementation Program 1.F.e discusses the development of parking areas and encourages new commercial development to locate parking areas behind buildings or sufficiently screen them from public roads and surrounding viewsheds. The parking areas on the project site will be situated so they are screened by existing vegetation and the existing and proposed buildings.
18. Figure 4.2 of the General Plan identifies State Highway 108 from its intersection with State

Highway 49 easterly into Mono County as a Scenic Route. Scenic routes and the Tuolumne County Guidelines for Development Along Scenic Routes are discussed under Visual Quality.

Tuolumne County Ordinance Code

19. Pursuant to Section 17.36.010 of the Tuolumne County Ordinance Code (TCOC), the purpose of the C-S (Special Commercial) zoning district is to provide for a variety of sales and service establishments which serve both the residents and visitors in areas that do not have public water and sewer service. Development within the C-S district shall be served by paved roads and adequate police and fire protection according to the policies of the general plan. Development in this zone must comply with Title 15 of the TCOC relative to fire safety standards and with applicable Federal, State and local regulations concerning the provision of water and sewage disposal to serve the development. The project site is provided public water service by the Mi Wuk Mutual Water Company and public sewer service by the Tuolumne Utilities District.
20. Pursuant to Section 17.36.020(L) of the TCOC, retail sales, indoor, (under 25,000 square feet of gross floor area, maximum) is a permitted use within the C-S zoning district. Section 17.36.020(T) states that enclosed storage of equipment and materials is also a permitted use. The total square footage of the existing and proposed buildings on the project site is 11,184± square feet.
21. Pursuant to Section 17.36.030(H) of the TCOC, outdoor storage may be permitted subject to first securing a Conditional Use Permit within the C-S zoning district.
22. Section 17.68.100 of the TCOC, states that to insure that certain types of proposed developments will serve to achieve a design which is desirable, a site development permit shall be secured prior to construction or expansion. Section 17.68.121 states that to insure that certain small developments are consistent with county regulations and are processed with a minimum of delay; a site review permit may be secured in lieu of a site development permit. Section 17.68.122(C) a site review permit is not required for a project for which a Conditional Use Permit has been issued, provided review of the development is similar to that required for a site review permit.
23. Section 17.68.020 of the TCOC, states that the purpose of the use permit is to allow the proper integration in the community of uses which may be suitable only on certain conditions in specific locations in a zoning district, or when site is regulated in a particular manner. Use permits shall be granted for particular use at a particular location, and may be transferred by the permittee to another person but not to another location.

Off-Street Parking

24. Section 17.60.010 of the Ordinance Code states that off-street parking facilities for the parking of motor vehicles shall be provided in connection with all buildings erected or increased in size. There are two buildings located on the project site. Approximately 1,600± square feet of the larger, 5,400± square foot, building is used as retail/office space, with the remaining square footage being used as warehousing and general storage. The entire 1,440± building is used for warehousing and general storage.
25. Section 17.60.020(7) states that the amount of parking required for retail shops is a minimum of 8 spaces plus one space for each 250 square feet of gross floor area in excess

of 1,000 square feet. The 1,600± square feet of retail/office space will require 10 parking spaces. This parking is sufficient to accommodate occasional passersby who stop to browse and purchase merchandise, and any online buyers who have opted to drive to Mi-Wuk Village to pick-up their purchase. Most online purchases are shipped to the buyer.

26. Section 17.60.020(16) states that the amount of parking required for warehousing and general storage use is one and one-half (1 ½) parking spaces per employee per largest shift. The owner is the only employee; therefore, the parking for the warehousing and general storage use is 2 spaces (rounding up pursuant to Section 17.60.060).
27. The total parking for the project site is 12 parking spaces, including one which will be handicapped accessible. Pursuant to Section 17.60.070, whenever more than ten parking spaces are required for a development, the allocation of spaces may include up to 50 percent small car spaces. Full size perpendicular spaces are 9' x 20', small car spaces are 8' x 16', and handicapped accessible spaces are constructed in accordance with the State Accessibility Standards.
28. The parking calculated for Site Review Permit 97SRP-007 amounted to 33 spaces based upon the whole site being used for retail. This number was reviewed because the bulk of the business is now conducted online.
29. APN 46-060-07, the parcel with the two existing buildings, does not have the area to accommodate all of the required parking and has access to State Highway 108 only through APN 46-070-05. The Conditions of Approval for Site Review Permit 97SRP-007 required the dedication of a reciprocal access and parking easement or the merger of APNs 46-060-07 and 46-070-05 prior to issuance of an occupancy permit for the 1,440± square foot building. This condition is still required to provide legal access to APN 46-060-07. The property owner has agreed to merge the two parcels.

Traffic Impact Mitigation Fee

30. The Tuolumne County Board of Supervisors has determined that projects of this type contribute cumulatively to the significant adverse impacts on the County's circulation system. To mitigate this impact, the project proponent or subsequent developer shall pay an appropriate Traffic Impact Mitigation Fee (TIMF) prior to issuance of a Certificate of Occupancy pursuant to Section 3.50.050 of the Tuolumne County Ordinance Code.

Based on the usage of the buildings as warehouse facilities primarily devoted to the storage of materials, the current fee is \$2,160 per 1,000 square feet. The three proposed buildings total 4,560± square feet. The TIMF for all three buildings is currently \$9,849.60. The final TIMF fees will be calculated and due prior to the issuance of a Certificate of Occupancy by the Building and Safety Division.

31. A Certificate of Occupancy has never been issued for Building Permit 97-001179 for the 36' x 40' (1,440 square foot) metal building on APN 46-060-07; therefore, the TIMF has not been paid. The TIMF is based upon the fees in effect at the time of building permit issuance. The Building Permit was issued on November 3, 1997, during a period when the TIMF was waived; therefore, no TIMF is required prior to issuance of a Certificate of Occupancy for the existing 1,440 square foot building on APN 46-060-07.

Wildlife Habitat

32. The Tuolumne County Wildlife Habitat Map indicates that the entire 1.08± acre project site

has the residential-park (rsp) habitat. Residential-park is a designation for urbanized areas, including residential, commercial, and industrial developments, as well as landscaped parks and gardens. The rsp habitat type is considered a fourth priority habitat pursuant to Appendix B of the Tuolumne County Wildlife Handbook. Fourth priority areas are of relatively low value for wildlife and no mitigation is required for cumulative impacts to wildlife.

33. The California Natural Diversity Database indicates that the following species have been sighted 600± feet to the west of the project site: Olive-Sided Flycatcher (*Contopus cooperi*) and Chipping Sparrow (*Spizella passerine*). The Olive-Sided Flycatcher is considered a bird species of Special Concern by the California Department of Fish and Wildlife. The Chipping Sparrow is not listed. The project site already contains buildings and the location of the proposed buildings was previously paved; therefore, implementation of the proposed project would not result in impacts to either the Olive-Sided Flycatcher or the Chipping Sparrow.

Cultural Resources

34. The Tuolumne County Database of Cultural Resources has been reviewed to determine the presence of known cultural resources on the project site. The Database revealed that no known cultural resources exist on the project site. In addition, no surface evidence of cultural resources was observed by Community Resources Agency staff during inspection of the site because the site is fully developed with buildings and paving. Therefore, a cultural resource study was not required for this project pursuant to Section 14.10.070 of the Tuolumne County Ordinance Code. The potential for subsurface cultural resources exists; therefore, the proposed conditions for Conditional Use Permit CUP14-009 include a condition to address the possibility of subsurface cultural resources being discovered during development of the site as required by Section 14.10.150 of the Ordinance Code.

Visual Quality

35. The project involves the construction of three buildings. The 2,080± square foot building will consist of five 20' by 8' containers and four 40' x 8' containers. The 1,600± square foot building will consist of ten 20' by 8' containers. The 800± square foot building will consist of five 20' by 8' containers. The containers are a pale yellow color. The outdoor holding area will be located between the existing warehouse on APN 46-060-07 and the proposed 2,080± square foot building. Naturally occurring vegetation along the northern property boundary adjacent to the State Highway 108 right-of-way will serve as a visual buffer between the proposed development and the highway.
36. On May 26, 1998, the Tuolumne County Board of Supervisors adopted Guidelines for Development Along Scenic Routes pursuant to General Plan Implementation Program 4.I.g. The purpose of the Guidelines is to preserve the scenic resources of Tuolumne County, which are identified as having considerable value both in providing a pleasurable environment for residents and in promoting tourism.
37. The Guidelines for Development Along Scenic Routes contain numerous sections that pertain to the proposed development. State Highway 108, the Sonora Pass Highway, from State Highway 49 easterly into Mono County is identified as a Scenic Route in Figure 4.2 of the Conservation and Open Space Element, and Appendix 2.A of the Circulation Element of the General Plan. The pertinent sections are as follow:

Section B: Site Planning states that new development along scenic routes should remain visually subordinate to its setting by maintaining the natural features visible from scenic routes. Additionally, buildings and structures should be designed and located on the site to

create a harmonious relationship with the surrounding natural environment and a generally attractive appearance. Design new development along routes to be: sited out of view from the scenic route, blended into natural landforms, and screened by native vegetation.

Section C: Screening suggests the utilization of landscaping to soften the visual impact of structures when natural screening is insufficient to avoid imposing improvements on the landscape. The use of native, drought tolerant landscaping is preferred over water-intensive ornamentals.

Section F: Preserve Rural Character recommends the maintenance of natural vegetation wherever possible. Natural vegetation can be incorporated into developments and used to screen improvements. Tree removal should be minimized and done only where no feasible alternative exists for construction or access or is required for safety. The existing vegetation along the highway consists of cedar, sugar pine and manzanita. The three proposed buildings will be shielded from view by the existing vegetation along State Highway 108.

Section H: Exterior Appearance of Structures proposes that new structures which exhibit modern architectural style should use natural materials and colors which are subdued and harmonize with the natural setting. Stains are preferable to paints and natural wood colors are encouraged to be used. In general, earth tones and soft shades that will blend with the natural surroundings would also achieve harmony with the natural setting. Bright colors and reflective surfaces should be avoided. Examples of earth tone colors include, but are not limited to:

- a. neutral or soft browns,
- b. tan,
- c. redwood,
- d. weathered gray or gray-green,
- e. dark green

The building components (storage containers) are a neutral pale yellow color, which is consistent with Section H. The project will also be conditioned that future repainting of the buildings be limited to colors consistent with Section H.

Section J: Accessory Structures and Appurtenant Facilities, states that site design should minimize the visual impact of parking lots and outdoor storage areas. Parking lots and outdoor storage areas should be located to the rear or the side of the structure and should be screened from view of the scenic route by the placement of buildings or by landscaping with plantings which harmonize with the natural landscape of the surrounding area. The parking areas will be shielded from view by both existing vegetation along the northern property boundary and the existing and proposed buildings.

Section K: Advertising, advocates that the appearance and materials of signs along scenic routes should conform to the historic and scenic character of the County. Signs should be rural in appearance. The use of natural materials, such as wood and stone, is encouraged. Signs should be conservative rather than obtrusive in design and appearance. Signs should demonstrate compatibility with development on the site and the surrounding natural environment. The applicant has not proposed any signage for the project at this time. The project will be conditioned to require the submittal of a sign plan and elevations for the review and approval of the Planning Division of the Community Resources Agency prior to the installation of any future signage. Proposed signage will be reviewed for compliance with the Tuolumne County Ordinance Code and the Guidelines for Development Along Scenic Routes.

Section L: Lighting, urges that exterior lighting should not detract from the natural setting or

rural character along scenic routes. To accomplish this, exterior lighting should incorporate the following:

- a. Screen lighting from the scenic route with structures, vegetation, or topography,
- b. Direct light downward to the area to be illuminated,
- c. Install shields to direct light and reduce glare,
- d. Utilize low rise light standards or fixtures attached to buildings,
- e. Utilize low pressure sodium lamps instead of halogen type lights.

The project will be conditioned requiring the submittal of a lighting plan. The lighting plan shall incorporate the above elements. The lighting plan will be reviewed and approved by the Planning Division of the Community Resources Agency prior to the issuance of a Building Permit.

Signage

38. Section 17.62.030 of the Tuolumne County Ordinance Code states that the appearance and materials of a sign shall conform to the historic and scenic character of the County. A sign shall be conservative rather than obtrusive in design and appearance, and shall receive regular maintenance so as to minimize tendencies to decay, fade, warp, chip or otherwise deteriorate in appearance. The use of wooden signs is encouraged, but other materials are not prohibited. Except as otherwise provided in this Chapter, no sign shall have or consist of any moving, rotating, or animated components, or any flashing, blinking, fluctuating or otherwise animated light. In addition, no sign shall approximate or resemble in any way an emergency light or sign. All signs shall be glareproof. Spotlighting, when utilized, shall be hidden from the line of vision of motorists and shall be directed only on the copy face of the sign. Signs mounted on structures and/or equipment associated with Tuolumne County's history, such as ore carts and stone walls, are encouraged. Sign design regulation may vary in specific communities that have adopted design review guidelines or historic zoning classifications or when a site development permit or other discretionary entitlement is required or has been approved.
39. The applicant has not proposed any signage for the project at this time. The project will be conditioned to require the submittal of a sign plan and elevations for the review and approval of the Planning Division of the Community Resources Agency prior to the installation of any future signage. Proposed signage will be reviewed for compliance with the Tuolumne County Ordinance Code and the Tuolumne County Guidelines for Development Along Scenic Routes.

Lighting

40. Exterior lighting of the project site has the potential to distract or otherwise create a nuisance for motorists along State Highway 108. Therefore, the project will be conditioned so that the lighting on the project site does not interfere with motorists traveling along any of the roadways adjacent to the project site. The project will be conditioned to require exterior lighting to incorporate the following: screen lighting from roads with structures, vegetation, or topography; direct the light downward to the area to be illuminated; install shields to direct light and reduce glare; utilize low rise light standards or fixtures attached to the buildings; and utilize low or high pressure sodium lamps instead of halogen type lights.

Landscaping

41. Section 15.28.010 of the Tuolumne County Ordinance Code requires that a landscaping plan be made a condition of each Site Development Permit, Site Review Permit and Building

Permit for construction of a new building on property zoned commercial or industrial. The minimum amount of landscaping required for parcels with a net area of one acre or less is twenty percent (20%). The minimum amount for parcels with a net area of more than one acre, but less than five acres, is fifteen percent (15%). The project will be conditioned to require the merger of the two, less than one acre, parcels, which will result in a parcel greater than one acre; therefore, the landscaping requirement will be 15%. The merged parcel will be approximately 1.08 acres, which will require 0.162± acres or 7,057± square feet of landscaping. A preliminary landscape plan indicates only 5,000± square feet of landscaping.

42. The project proponent proposes to use existing natural vegetation to meet the landscaping requirement. Section 15.28.030 of the Ordinance Code states that existing trees and other vegetation are encouraged to be retained and shall count toward meeting the landscaping requirement. A site inspection of the property indicates that there is likely sufficient natural vegetation to meet the landscaping requirement, but this will be confirmed with submittal of a landscape plan.
43. As discussed below in the comments from the California Department of Transportation, the project site contains natural vegetation along the highway which must be removed in order to improve the sight distance for traffic entering the highway from the project site. The majority of vegetation removal will occur within the highway right-of-way.
44. A condition will be incorporated into the project approval requiring a landscape plan be submitted to the Planning Division of the Community Resources Agency for review and approval. The plan will be required to be consistent with Chapter 15.28 of the Tuolumne County Ordinance Code and the Tuolumne County Landscape Guidelines. Revised plans will be required to be submitted for review and approval within 30 days after the completion of any clearing that is conducted to improve vehicular sight distance to ensure sufficient vegetation exists to act as a visual buffer between the project site and State Highway 108. If necessary, additional plantings may be necessary to maintain the visual buffer.

Advisory Agencies

Fire Prevention Division

45. The Fire Prevention Division reviewed the proposed project. Regulations applicable to the project have been added to Conditional Use Permit CUP14-009 regarding fire flow, hydrants, gates, and access requirements. The gate must be located no closer than 30 feet from the edge of pavement of State Highway 108, must be at least 2 feet wider than the width of the driveway, and open away from the highway pursuant to Section 11.12.062 of the TCOC.

Building and Safety Division

46. The Building and Safety Division states that all independent storage containers are required to be permanently attached to one another and to be permanently fixed to new foundation to satisfy the classification as one structure pursuant to Section 202 of the California Building Code.
47. Additionally, applications must be submitted to the Building and Safety Division and building permits obtained and finalized for any storage racks six feet high or taller in the existing buildings on the project site. The application shall include engineering demonstrating how

the rack is secured.

Engineering Division

48. The Engineering Division has advised that all traveled ways and parking areas on the project site must be paved pursuant to Section 17.60.070(C) of the Tuolumne County Ordinance Code. This requirement has been incorporated into the proposed conditions for Conditional Use Permit CUP14-009.
49. The Engineering Division also noted that the existing commercial driveway and gate do not meet Tuolumne County Title 11 minimum standards and will need to be improved to commercial standards, including being a minimum of 20 feet in width and paved.

Solid Waste Division

50. The Solid Waste Division reviewed the proposed project and noted that the Mandatory Commercial Recycling Law (Assembly Bill 341) requires all business that generate 4 cubic yards of solid waste per week to recycle. The options for recycling are:
 - Subscribe to the recycling service provided by the franchisee hauler for that collection area
 - Self-haul recyclables to a recycling center
 - Donate recyclables to a charitable causeThe project has been conditioned to require refuse facilities for the storage of solid waste and recyclable materials if the project will generate 4 cubic yards of solid waste per week. If this threshold is not met, then all refuse must be stored in appropriate receptacles inside the buildings and disposed of pursuant to Section 8.050.035(1) and (2).

California Department of Transportation (Caltrans)

51. The proposed project has been reviewed by the California State Department of Transportation (Caltrans). Caltrans observed that Condition 13 of Site Review Permit 97SRP-007 required thinning of vegetation along the highway frontage and in the State right-of-way to improve the line of sight for the project driveway. Field review of existing conditions at the driveway encroachment has confirmed that thinning of brush is needed to improve the line of sight. Caltrans recommends application of the previous condition to the current project. An encroachment permit from Caltrans will be required for any work within the State right-of-way. The application for an encroachment permit must include appropriate environmental studies identifying appropriate avoidance, minimization, and mitigation measures.

Commission Action

52. The Tuolumne County Planning Commission is the decision-making body for Conditional Use Permit CUP14-009 and a recommending body for Zone Change RZ13-005. The Tuolumne County Board of Supervisors is the decision-making body for Zone Change RZ13-005. Conditional Use Permit CUP14-009 will not go into affect until the effective date of Zone Change RZ13-005.

PREPARED BY: Alex Guilbert, Planner

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CONDITIONS OF CONDITIONAL USE PERMIT CUP14-009
FOR ROSS

General Conditions:

1. PD As a condition of the grant of approval of this Permit, and as a continuing condition of approval of the Permit, developer/permittee/applicant/property owner/subdivider, and the successor in interest shall defend, indemnify, save and hold harmless the County of Tuolumne, its elected and appointed officials, officers, agents, employees and volunteers from any and all claims, actions, proceedings, or liability of any nature whatsoever (including attorney's fees and costs awards) arising out of, or in connection with the County's review or approval of the application or project on which this condition is imposed, or arising out of or in connection with the acts or omissions of the above described person, and his/her/its agents, employees, or contractors, during any work performed in connection with the application or project. With respect to review or approval, this obligation shall also extend to any effort to attack, set aside, void, or annul the approval of the project including any contention the project approval is defective because a county ordinance, resolution, policy, standard, or plan is not in compliance with local, state or federal law. With respect to acts or omissions of the above described person and his/her/its agents, employees, or contractors, the obligation hereunder shall apply regardless of whether the County prepared, supplied, or approved plans, specifications or both. If the defense right is exercised, the County Counsel shall have the absolute right to approve any and all counsel employed to defend the County. To the extent the County uses any of its resources to respond to such claim, action or proceeding, or to assist the defense, the above described person will reimburse County upon demand. Such resources include, but are not limited to, staff time, court costs, County Counsel's time at its regular rate for non-County agencies, or any other direct or indirect cost associated with responding to, or assisting in defense of, the claim, action, or proceedings. For any breach of this obligation the County may, without notice, rescind its approval of the application or project to which this covenant/condition is attached. (TCOC, Section 17.68.150)
2. PD Conditional Use Permit CUP14-009 will not become effective until the effective date of the ordinance adopted for Zone Change RZ13-005 to rezone Assessor's Parcel Number 46-060-07 from C-1 (General Commercial) to C-S (Special Commercial) and Assessor's Parcel Number 46-070-05 from C-1:MX (General Commercial:Mobilehome Exclusion Combining) to C-S under Title 17 of the Tuolumne County Ordinance Code. (Tuolumne County Resolution 223-96)
3. PD Upon the effective date of Conditional Use Permit CUP14-009, the Conditions of Approval of Site Review Permit 97SRP-007 will be superseded by the Conditions of Approval for Conditional Use Permit CUP14-009. (TCOC, Section 17.68.150)

Conditions to be met prior to the issuance of a Grading, Grading Review or Building Permit for each individual building proposed unless otherwise denoted:

4. PD The property owner shall complete the merger of Assessor's Parcel Numbers 46-060-07 and 46-070-05 into one parcel. (Project Description)
5. ED Secure a Grading Review Permit from the Engineering Division of the Community Resources Agency. (TCOC, Section 12.20.050)
6. Caltrans The sight distance for the egress onto State Highway 108 shall be improved as deemed necessary by Caltrans. Improvements shall include, but not necessarily be limited to, thinning of the vegetation on the north side of the driveway outside of the fence line. The mature ponderosa pine and cedar trees shall not be removed. Vegetation removal within the State Highway right-of-way shall require an Encroachment Permit from Caltrans. (TCOC, Section 17.68.150)
7. ED Submit a copy of the Encroachment Permit secured from the California Department of Transportation for any work, including vegetation removal and driveway improvements, within the State Highway 108 right-of-way to the Engineering Division of the Community Resources Agency. (TCOC, Section 17.68.150)
8. ED/PD A parking area plan shall be submitted to the Engineering and Planning Divisions of the Community Resources Agency for review and approval. Plans shall address internal traffic circulation, parking stall layout and include necessary striping, marking and signing. At least twelve (12) County standard off-street parking spaces shall be provided. All parking areas and traveled ways on the site shall be paved, striped and lined in accordance with approved plans. The parking area plan shall be submitted in connection with the Grading Review Permit. (TCOC, Section 17.68.150)
9. PD Submit a Landscape Plan to the Planning Division of the Community Resources Agency for review and approval. The Plan shall be consistent with Chapter 15.28 of the Tuolumne County Ordinance Code. (TCOC, Sections 15.28.010 and 17.68.150)
10. BD/PD A plot plan supplement showing the location and design of refuse facilities for the storage of solid waste and recyclable materials shall be submitted to the Community Resources Agency for review and approval. (TCOC, Chapter 8.05)
11. FPD The required fire flow for the proposed buildings is 1,500 gpm at 20-psi for two hours with Type V-B construction. If the construction type of the buildings changes, the required fire flow shall also change. Fire flow is determined by the square footage of the largest building on site including all horizontal projections. (CFC, Section 508.3)

12. FPD The required fire flow shall be on site, tested and approved by Tuolumne County Fire Department Fire Prevention Division prior to the issuance of any building permits. (TCOC, Section 15.20.010)
13. BD Obtain a Certificate of Occupancy for the existing 36' x 40' (1,440 square foot) metal building on APN 46-060-07. (TCOC, Section 17.68.150)
14. BD Obtain building permits for any storage racks six feet high or taller on the project site. (TCOC, Section 17.68.150)
15. ED Submit to the State Water Resources Control Board Storm Water Permitting Unit, a Notice of Intent (NOI) to obtain coverage under the Industrial Activity/General Construction Activity Storm Water Permit (California's National Pollutant Discharge Elimination System (NPDES) general permit for industrial construction related storm water discharges). (Federal Water Pollution Control Act, State Water Resources Control Board)
16. PD Prior to installation of any exterior lighting, a lighting plan shall be submitted to the Planning Division of the Community Resources Agency for review and approval. Exterior lighting of the parking areas and structures, if provided, shall incorporate the following: screen lighting from roads with structures, vegetation, or topography; direct the light downward to the area to be illuminated; install shields to direct light and reduce glare; utilize low rise light standards or fixtures attached to the buildings; and utilize low or high pressure sodium lamps instead of halogen type lights. (TCOC, Section 17.68.150)

Conditions to be met during the construction phase of the proposed project:

17. BD Hours of exterior construction on the project site shall be limited to 7:00 a.m. to 7:00 p.m. Monday through Saturday. Exterior construction shall be prohibited on Sunday and County holidays. (TCOC, Section 17.68.150)
18. ED/BD Prior to the construction of any site improvements or grading on the site, all property corners shall be monumented and clearly visible. Where a clear line-of-sight between lot corners does not exist, appropriate markers shall be set on the property line to identify the boundaries while construction is in progress. (TCOC, Chapter 12.20 and Section 17.56.020)
19. ED/BD Property owner shall be responsible for dust abatement during construction and development operations. A water truck or other watering device shall be on the construction site on all working days when natural precipitation does not provide adequate moisture for complete dust control. Said watering device shall be used to spray water on the site at the end of each day and at all other intervals, as need dictates, to control dust. (TCOC, Section 12.20.330)
20. ED/BD Exposed serpentine gravel is prohibited on the construction site unless completely enclosed by unrestricted material. (Health and Safety Code, Section 93106)

21. ED All soils disturbed by grading shall be reseeded or hydromulched or otherwise stabilized as soon as possible and before October 15 of the construction year, and emergency erosion control measures shall be utilized as requested by County officials. (TCOC, Chapter 12.20)
22. ED The property owner shall submit an erosion control plan to the Engineering Division of the Community Resources Agency for any construction to take place between October 15 and May 15 of any year. In the absence of such approved and implemented plan, all construction shall cease on or before October 15. (TCOC, Title 12)
23. PD If a cultural resource is discovered during the activities authorized by this Permit, the person in possession of the parcel for which the permit was issued and all persons conducting any activity authorized by this permit shall comply with the following provisions:
 - A. The person discovering the cultural resource shall notify the Community Resources Agency by telephone within 4 hours of the discovery or the next working day if the department is closed.
 - B. When the cultural resource is located outside the area of disturbance, the Community Resources Agency shall be allowed to photodocument and record the resource and construction activities may continue during this process. On parcels of two or more gross acres, the area of disturbance includes building pads, septic areas, driveways or utility lines, grading and vegetation removal, plus 300 feet. On parcels of less than 2 gross acres, the area of disturbance equals the boundaries of the parcel.
 - C. When the cultural resource is located within the area of disturbance, all activities that may impact the resource shall cease immediately upon discovery of the resource. All activity that does not affect the cultural resource as determined by the Community Resources Agency may continue. A qualified professional, as defined in Section 17.04.657 of the Tuolumne County Ordinance Code, such as an archaeologist or an historian, shall be allowed to conduct an evaluative survey to evaluate the significance of the cultural resource.
 - D. When the cultural resource is determined to not be significant, the qualified professional or Community Resources Agency shall be allowed to photodocument and record the resource. Construction activities may resume after authorization from the Community Resources Agency.
 - E. When a resource is determined to be significant, the resource shall be avoided with said resource having boundaries established around its perimeter by a qualified professional archaeologist or historian or a cultural resource management plan shall be prepared by a qualified professional to establish measures formulated and implemented in accordance with Sections 21083.2 and 21084.1 of the California

Environmental Quality Act (CEQA) to address the effects of construction on the resource. The qualified professional shall be allowed to photodocument and record the resource. Construction activities may resume after authorization from the Community Resources Agency. All further activity authorized by this permit shall comply with the cultural resources management plan.

A cultural resource is any building, structure, object, site, district, or other item of cultural, social, religious, economic, political, scientific, agricultural, educational, military, engineering or architectural significance to the citizens of Tuolumne County, the State of California, or the nation which is 50 years of age or older or has been listed on the National Register of Historic Places, the California Register of Cultural Resources, or the Tuolumne County Register of Cultural Resources. (TCOC, Section 14.10.150)

24. AG All hay, straw, hay bales, straw bales, seed, mulch or other material used for erosion control or landscaping on the project site shall be free of noxious weed seeds and propagules. Noxious weeds are defined in Title 3, Division 4, Chapter 6, Section 4500 of the California Code of Regulations and the California Quarantine Policy – Weeds. (Food and Agriculture Code, Sections 6305, 6341 and 6461)
25. AG All equipment brought to the project site for construction shall be thoroughly cleaned of all dirt and vegetation prior to entering the site, in order to prevent importing noxious weeds. (Food and Agriculture Code, Section 5401)
26. AG All material brought to the site, including rock, gravel, road base, sand, and top soil, shall be free of noxious weed seeds and propagules. Noxious weeds are defined in Title 3, Division 4, Chapter 6, Section 4500 of the California Code of Regulations and the California Quarantine Policy – Weeds. (Food and Agriculture Code, Sections 6305, 6341 and 6461)
27. SW All solid waste from demolition or construction activities shall be disposed of at facilities authorized by the County Board of Supervisors by Resolution, including the Cal Sierra Transfer Station, the Pinecrest Transfer Station, or the Groveland Transfer Station. Solid waste that is not accepted at these facilities may be disposed of at an alternative facility that is permitted to receive the waste. (TCOC, Section 7.12.050)

Conditions to be met prior to the issuance of a Certificate of Occupancy by the Building and Safety Division of the Community Resources Agency. These conditions shall be attached to each individual building proposed unless otherwise denoted:

28. PD The final project shall meet all requirements mandated by federal, state or local law. Federal or state law may require additional obligations beyond those required by these conditions or local requirements, including additional analysis of environmental or other issues, over which the County has no control. (TCOC, Section 17.68.150)
29. Caltrans/ED The driveway from State Highway 108 shall be improved to commercial standards, paved a minimum of 20 feet in width. (TCOC, Section 17.68.150)

30. ED/FPD The commercial driveway shall be provided within 150 feet of all portions of the exterior walls of the proposed buildings. The driveway shall be constructed to have an unobstructed width of not less than 20 feet and an unobstructed vertical clearance of not less than 15 feet. The driveway shall be designed and maintained to support the imposed loads of fire apparatus and shall be provided with a surface so as to provide all-weather driving capabilities. Signs shall be provided and maintained for fire apparatus access roads to identify such roads and prohibit the obstruction thereof or both. The roads shall be posted with signs stating "No Parking Fire Lane" or other language as approved by the Tuolumne County Fire Department Fire Prevention Division. Red striping on the exterior boundaries of fire access roads shall be used to identify areas of roads and prohibit vehicle obstruction. The configuration of the fire apparatus access roads shall be indicated on the site plan and shall be approved by the Fire Prevention Division. Fire apparatus access roads shall not be blocked in any manner, including parking of vehicles. (CFC, Section 503; TCOC, Title 11)
31. FD/BD The propane tank shall have a minimum separation of 10 feet from buildings, public ways, and property lines. (UFC, 8204-A; TCOC, Section 17.68.150)
32. FPD A County Standard Dry Barrel Hydrant shall be available within 300 feet of the furthest portion of all proposed buildings measured by way of drivable access. The Tuolumne County Fire Department Fire Prevention Division shall approve all hydrant plans, locations and installations. (TCOC, Chapter 15.20)
33. FPD Five pound 2A10BC portable dry chemical fire extinguishers shall be installed in each building located within a travel distance of not more than 75 feet from any point within each building. All extinguisher locations shall be approved by the Fire Prevention Division prior to installation. (CFC Standards 10-1 and Section 906)
34. FPD For any dead-end fire apparatus access road in excess of 150 feet in length, an area for turning fire apparatus around shall be provided as approved by the Tuolumne County Fire Department Fire Prevention Division. (CFC, Section 503)
35. ED/FPD The gate at the entrance off State Highway 108 shall be at least two feet wider than the width of the traveled way serving the gate. The gate shall be located a minimum of thirty feet from the edge of the highway and shall open away from the roadway. (TCOC, Section 11.12.062)
36. FPD Gates on access roads shall be posted with signs stating "Fire Access Road, No Parking." The size, number and location of the signs shall be approved by the Tuolumne County Fire Department Fire Prevention Division. (CFC, Section 503.6)
37. FPD A switch shall be installed on electronic gates and located in a County approved supra lock box to allow Fire Department access. (CFC, Section 503.6)

38. FPD Electronic gates shall open automatically when a vehicle approaches from within the gated area. (CFC, Section 503.6)
39. FPD Where security gates are installed, they shall have an approved means of emergency operation. (CFC, Section 503.6)
40. BD Building permits for any storage racks six feet high or taller on the project site shall be finalized. (TCOC, Section 17.68.150)
41. BD The applicable Traffic Impact Mitigation Fee (TIMF) shall be paid to Tuolumne County prior to issuance of a Blue Tag or prior to close of escrow if an escrow account has been established prior to issuance of a Building Permit for any new residential construction. No TIMF is required to be paid for the 1,440± square foot building on Assessor's Parcel Number 46-060-07. (TCOC, Chapter 3.54)
42. FPD/BD Address numbers shall be displayed on a building or land in such a manner as to be visible from the street or road on which the building or land fronts. Where the building is located more than 50 feet from the main roadway, the number shall be displayed at the entrance of the driveway and be readable from both directions. The size of letters, numbers and symbols for addresses shall be a minimum of six inch letter height but shall not exceed twelve inches in height, five-eighth inch stroke, reflectorized, contrasting with background color of the sign. Addresses mounted to buildings shall use same size configuration and be illuminated. All numbers or signs shall be maintained in a neat and orderly manner so as to remain readable. (TCOC Sections 12.12.080(A)(3) and 12.12.080(A)(4); CFC, Section 505)
43. PD/BD/ED All parking on the site shall adhere to the parking area plan approved by the Engineering and Planning Divisions of the Community Resources Agency referenced in Condition 8. At least twelve (12) County standard off-street parking spaces shall be provided for the project. Required parking shall be installed in compliance with Chapter 17.60 of the Tuolumne County Ordinance Code. All parking areas and traveled ways on the site shall be paved, striped and lined in accordance with approved plans. Any significant deviation from the plan shall require approval of supplemental plans submitted by the property owner. (TCOC, Chapter 17.60)
44. PD/BD All construction on the site shall adhere to the site plan and exterior elevational drawings approved by the Tuolumne County Planning Commission on August 5, 2015. Any significant deviation from the plans shall require approval of supplemental plans submitted by the property owner. (TCOC, Section 17.68.150)
45. PD Exterior lighting shall be installed in compliance with the approved lighting plan referenced in Condition 16. (TCOC, Section 17.68.150).
46. BD/PD Refuse storage facilities shall be constructed as shown on the plot plan supplement approved by the Community Resources Agency referenced in Condition 12. (California Code of Regulations, Title 14, Sections 17301-

17317)

47. PD A site inspection will be conducted by Community Resources Agency personnel to verify compliance with the conditions listed above. (TCOC, Section 17.68.150)

Conditions to be met after occupancy of the buildings. The owner of the property at the time of construction or use shall be responsible for compliance with the following conditions:

48. PD All landscaping on the site shall adhere to the approved Landscape Plan referenced in Condition 9. Any significant deviation from the plan shall require approval of a revised plan submitted by the property owner. (TCOC, Sections 15.28.010 and 17.68.150)
49. PD Revised plans shall be required to be submitted for review and approval within 30 days after the completion of any clearing that is conducted to improve vehicular sight distance to ensure sufficient vegetation exists to act as a visual buffer between the project site and State Highway 108. If necessary, additional plantings may be necessary to maintain the visual buffer. (TCOC, Section 17.68.150)
50. PD Property owner shall be responsible for maintaining landscape plants in a healthy and attractive condition. Dead or dying plants shall be replaced with materials of equal size and similar variety. (TCOC, Section 17.68.150)
51. PD Prior to the installation of any signage on the project site, a sign plan shall be submitted to the Planning Division of the Community Resources Agency for review and approval. All signs proposed shall adhere to Chapter 17.62 of the Tuolumne County Ordinance Code. (TCOC, Chapter 17.62)
52. PD The noise levels generated by the project shall be restricted to the following exterior noise limits as measured at the property line:

Zoning Classification of Receiving Property	Noise Level (dB) of Sound Source	
	Daytime (7 a.m. to 10 p.m.)	Nighttime (10 p.m. to 7 a.m.)
MU, R-3, R-2, R-1, RE-1, RE-2, RE-3, RE-5, RE-10, C-O, C-1, C-S, BP	50 L _{eq} . (1 hour) ¹	45 L _{eq} . (1 hour) ¹

¹L_{eq}. 1 hour refers to the average noise level measured over a one hour period.

53. AG The property owner shall maintain and implement an effective program for the monitoring and control of noxious weeds. Noxious weeds are defined in Title 3, Division 4, Chapter 6, Section 4500 of the California Code of

Regulations and the California Quarantine Policy – Weeds. (Food and Agriculture Code, Sections 5401 and 5402)

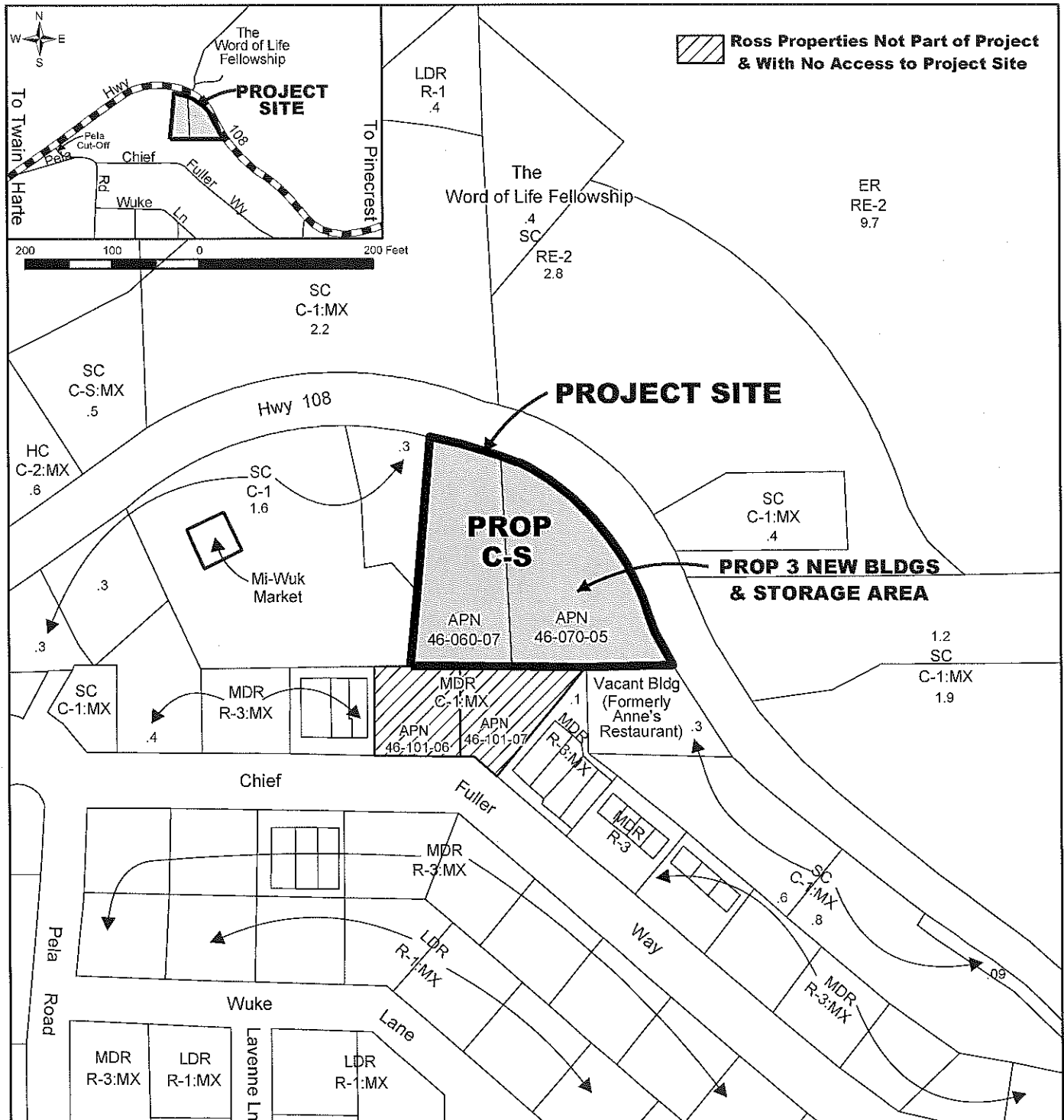
54. SW If the facility generates more than 4 cubic yards of solid waste per week then recycling is required. The options for recycling include: subscribe to the recycling service provided by the Franchisee hauler for that collection area, self-haul recyclables to a recycling center, or donate recyclables to a charitable cause. (PRC, Section 40502)
55. SW If the project will not generate 4 or more cubic yards of solid waste per week, then all refuse must be stored in appropriate receptacles inside the buildings and disposed of pursuant to Section 8.05.035(1) and (2). (TCOC, Chapter 8.05)
56. PD Exterior colors of the proposed buildings shall be earth tones and soft shades that will blend with the natural surroundings. Bright colors and reflective surfaces shall be avoided. (TCOC, Section 17.68.150)
57. PD Outdoor storage on the project site shall be confined to the holding area designated on the site plan approved by the Tuolumne County Planning Commission on August 5, 2015, and shall be limited to 14 days. (TCOC, Section 17.68.150)
58. PD Any expansion of the duration or spatial area of the outdoor storage and/or use of any buildings on the project site for mini-storage facilities shall be prohibited unless a subsequent Conditional Use Permit is applied for and approved. (TCOC, Section 17.36.030)
59. PD Access to the project site via Chief Fuller Way through Assessor's Parcel Numbers 46-101-06 and 46-101-07 shall be prohibited until such a time that a future entitlement addresses the commercial use and access of Assessor's Parcel Numbers 46-101-06 and 46-101-07.(Project Description)

A Notice of Action shall be recorded for Conditions 1 and 48 through 59 to notify all owners of this parcel of the conditions of this entitlement and these responsibilities. Any violations observed by the Community Resources Agency during regular site inspections or in response to complaints shall be referred to the agency having jurisdiction over the condition for resolution or referred to the Code Compliance Officer for enforcement. (TCOC, Section 17.68.150)

COMMUNITY RESOURCES AGENCY CONTACT PERSON: Alex Guilbert, Planner

S:\Planning\PROJECTS\Rezone\2013\RZ13-005 Ross (SRP13-003)\Agenda Report - Ross.doc Rev 02/14/2013

ROSS



Owner: Christopher R. Ross & Mildred J. Ross

Applicant: Tim Finicle

A.P. Nos.: 46-060-07 & 46-070-05

1.1± Ac.

Existing: SC; C-1 (0.45± Ac.) & C-1:MX (0.63± Ac.)

Proposed: 1.1± Ac. to C-S & Conditional Use Permit to Allow 3 New Buildings & Storage Area

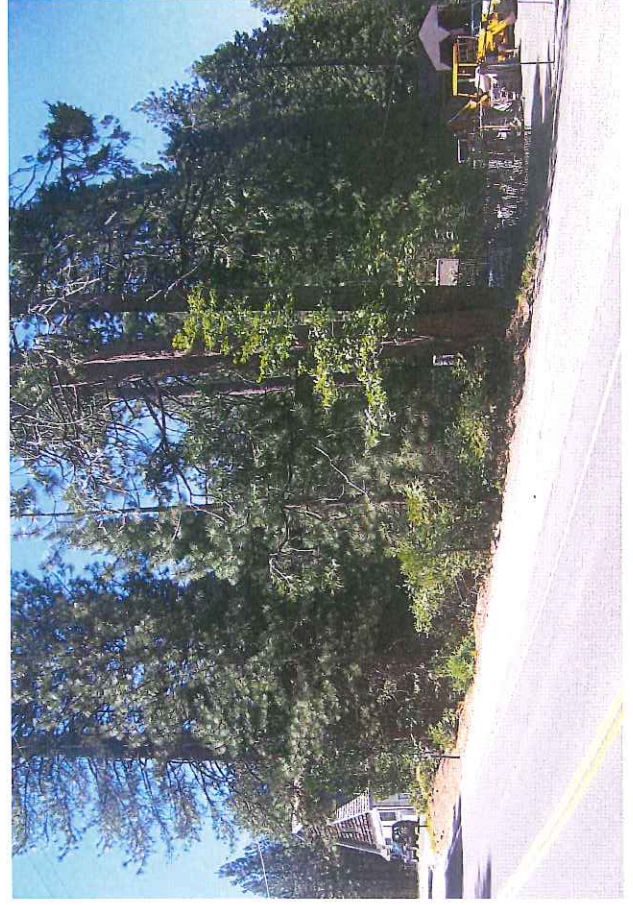
Project: RZ13-005 & CUP14-009

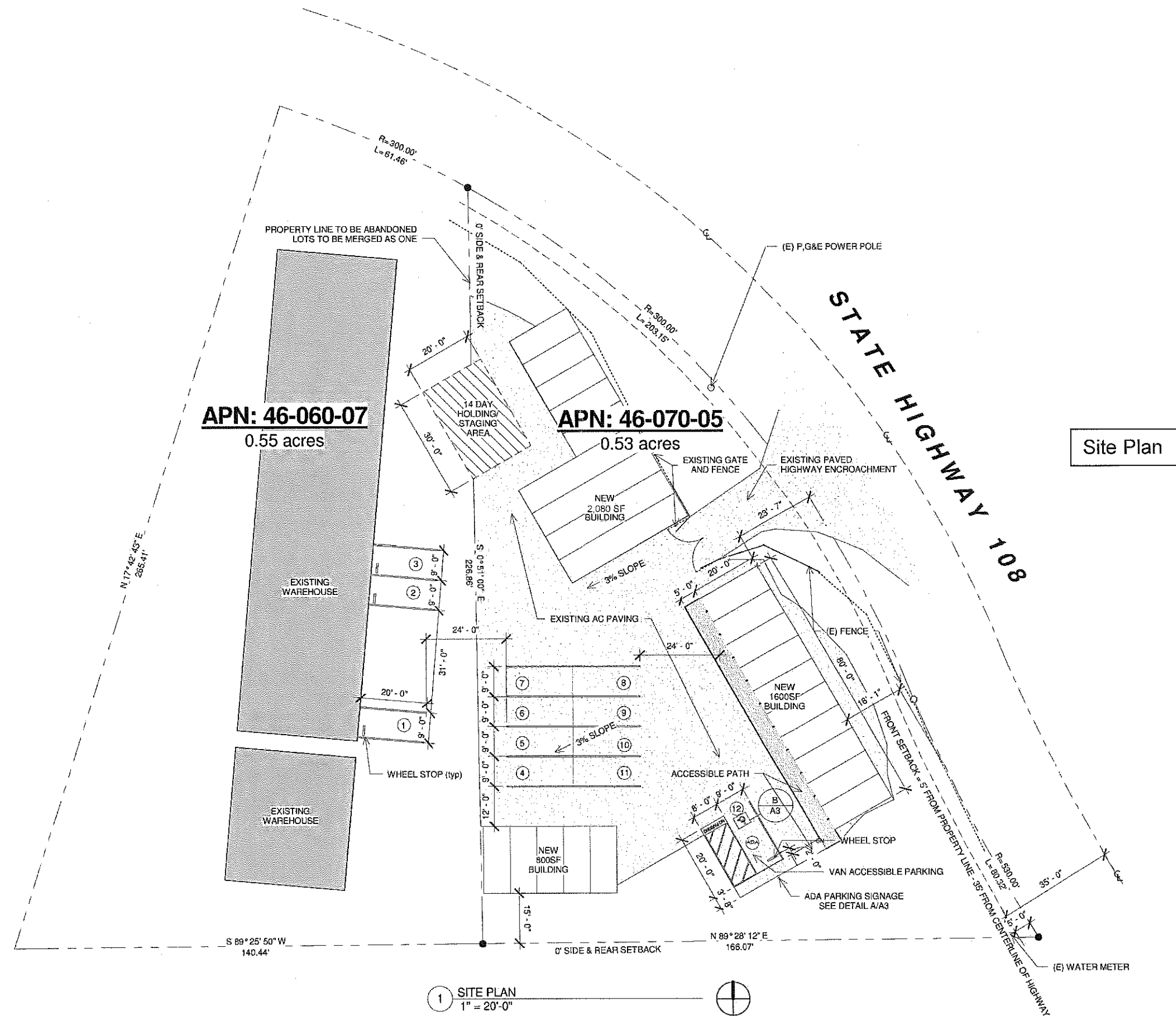
Supervisory District No.3

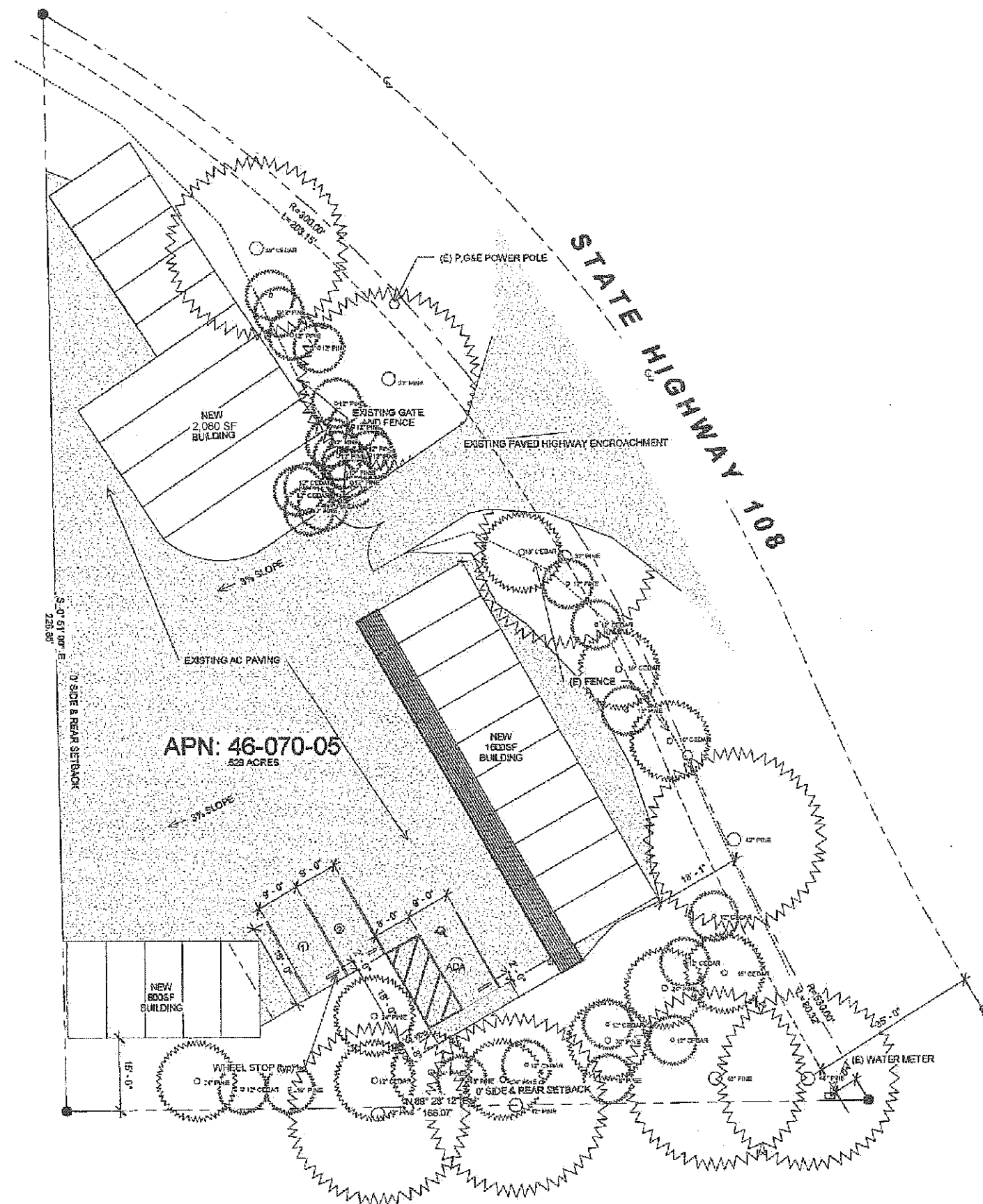
ROSS



The existing vegetation will serve as landscaping and a visual buffer.







Landscape Plan

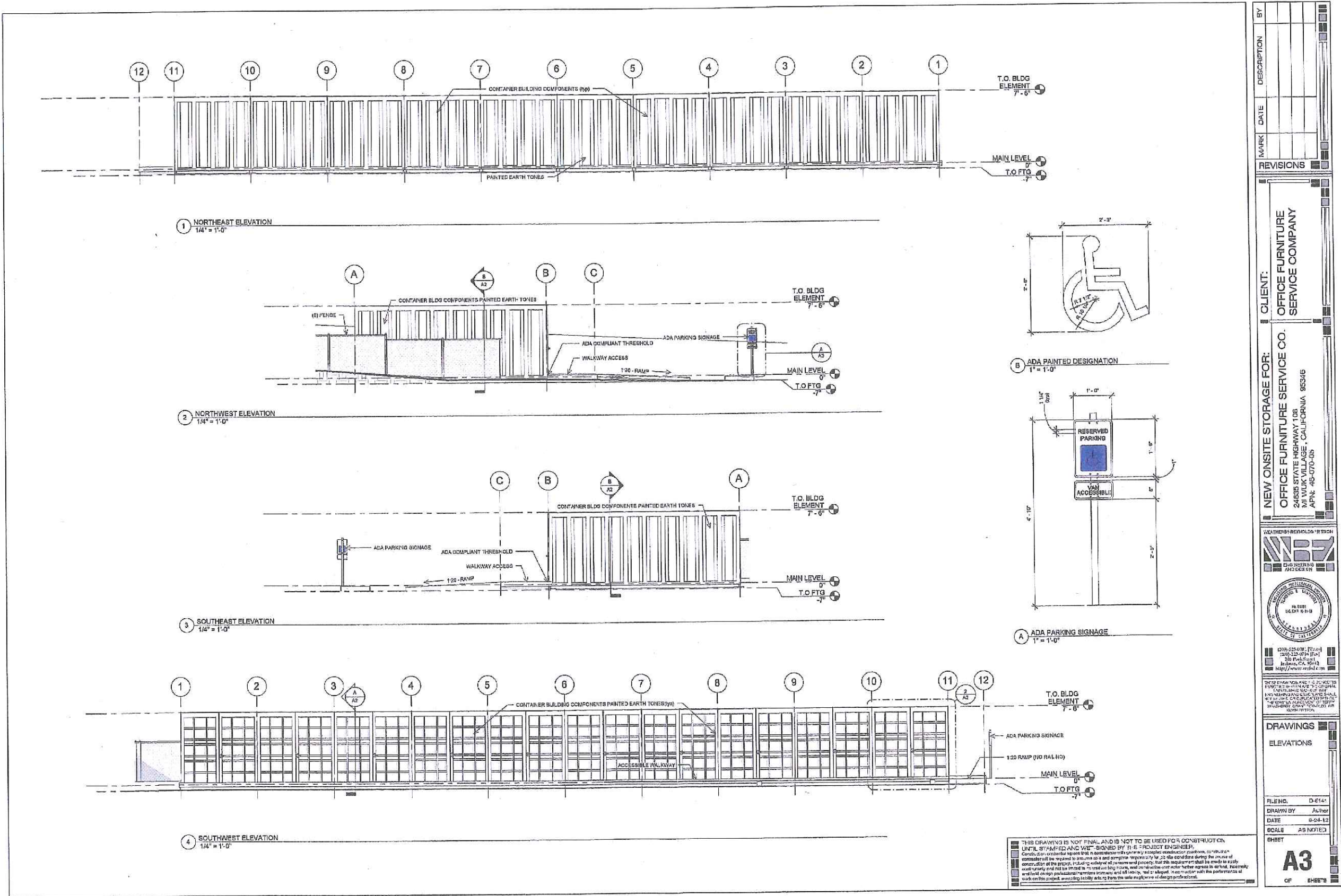
LANDSCAPE STATEMENT

THE PROPERTY CURRENTLY CONSISTS OF DROUGHT TOLERANT, INDIGENOUS SPECIES OF TREES AND UNDERGROWTH.

LARGE AND SMALL, CEDAR AND PINE, TREES LINE THE EDGES OF THE PARCEL AND PROVIDE SCREENING FROM ROADWAY AND NEIGHBORS. UNDERGROWTH CONSISTS OF BEAR CLOVER AND SPOT JUNIPERS.

NO WATER RESOURCES ARE NECESSARY IN THE MAINTENANCE OF THE EXISTING AND ABUNDANT VEGETATION.

NO NEW LANDSCAPE ELEMENTS ARE BEING PROPOSED





COMMUNITY RESOURCES AGENCY

BEV SHANE, AICP
Director

Administration - Building - County Surveyor - Engineering - Environmental Health - Fleet Services - GIS - Housing - Planning - Roads - Solid Waste

August 5, 2015

The Honorable Donald Segerstrom
Tuolumne County Superior Court
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Sonora, CA 95370

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RE: Response to 2014-2015 Grand Jury Report – Tuolumne County Planning Commission

Dear Judge Segerstrom:

The Grand Jury reviewed the Tuolumne County Planning Commission in fiscal year 2014-2015. The Grand Jury provided the following findings and recommendations, responses to which have been provided by Bev Shane, Community Resources Agency Director, and the Tuolumne County Planning Commission. The Planning Commission voted to submit the following responses at its meeting on August 5, 2015:

Grand Jury Findings

- F1. The Grand Jury finds that the elimination of the Southern County Planning Commission especially disenfranchises the Southern County area from the decision making process.

Response: We do not agree with this finding. Disbanding the Southern Tuolumne County Planning Commission effective July 1, 2013, modified the planning process but did not eliminate any opportunity for an interested party to provide comments on a development project. The planning process in California emphasizes public participation. When a land development project is submitted to the Community Resources Agency (CRA), the Planning Staff conducts an early consultation process in which a notice requesting comments on the project is mailed to adjoining property owners and anyone who has asked to be notified of certain projects. If a project is subject to review under the California Environmental Quality Act (CEQA), a second notice is mailed advising of the opportunity to comment on the environmental document prepared for the project. Another notice is mailed advising of the date and time of the Planning Commission hearing. For most projects, the Planning Commission makes a recommendation to the Board of Supervisors. When the Commission is the decision making body for a project, the decision is appealable to the Board of Supervisors. A notice of the Board of Supervisors hearing on a project is also mailed to adjoining property owners and other interested parties. Notices of these opportunities to comment on a project are also published in the Union Democrat newspaper and posted on the County's website. Interested persons may submit written comments in response to each of these notices and also attend the public hearings. Pursuant to State law, the Planning Commission and Board of Supervisors must consider all written comments and materials that have been submitted prior to making a decision regarding a land development project. As such, if an interested person cannot attend the Planning Commission meeting or Board of Supervisors meeting, his/her written comments will still be considered.

The Tuolumne County Planning Commission is comprised of seven members, five of whom represent the five supervisorial districts. The Fourth District includes the area that was previously under the jurisdiction of the Southern Tuolumne County Planning Commission. Residents and owners of property in the Fourth District are represented in the land use decision making process by County Supervisor John Gray and Planning Commissioner Jerry Baker, both of whom live in the Groveland area.

As noted above, residents and owners of property in the South County still have a voice in the land use decision making process even if they are not able to attend the Tuolumne County Planning Commission meetings. The Tuolumne County Planning Commission is authorized to meet anywhere within its geographic boundary, which is the entire County. As such, when a large or controversial project is proposed in the South County, the Planning Commission will conduct its public hearing on the project in the community in which the project is located, either Lake Don Pedro or Groveland, just as the Southern Tuolumne County Planning Commission previously did. Since the Southern Tuolumne County Planning Commission was disbanded in 2013, there have only been six (6) small projects in the South County that have been heard by the Tuolumne County Planning Commission; consequently, there has been no need for the Planning Commission to conduct a meeting in the South County at this time.

- F2.** The Grand Jury finds that delayed broadcasts of Planning Commission meetings, only on cable Channel 8, does not adequately encourage public participation.

Response: We do not agree with this finding. Because the Planning Commission's jurisdiction is limited to land use issues, public interest and participation are based on the type of a development project and its location. People tend to be interested in projects that are located in their neighborhoods or otherwise may directly affect them. Because interest in land use planning is focused on specific projects and is not broad based, streaming of the Planning Commission meetings is anticipated to have limited effect in encouraging additional public participation.

- F3.** The Grand Jury finds that not having archived meetings available for the public to view on the County website results in less public participation.

Response: We do not agree with this finding. Audio recordings of the Planning Commission meetings are currently available to interested parties upon request and written minutes of the meetings are available on the County's website. These materials have been available for many years. There has been little demonstrated interest in these materials so it is anticipated that there would be limited interest in posting videos of the past Planning Commission meetings on the County's website.

- F4.** The Grand Jury finds that interactive Planning Commission meetings may have a positive effect on public participation.

Response: We agree with this finding.

- F5.** The Grand Jury finds that the procedures currently used by the Planning Commission for giving notice of upcoming meetings is the minimum required by the Brown Act.

Response: We do not agree with this finding. Under the Brown Act, notice of a regular meeting must be posted a minimum of 72 hours (3 days) prior to the meeting. A 24-hour (1 day) notice is required for a special meeting. Items considered by the Tuolumne County Planning Commission are subject to the notice requirements of Section 65090 et seq. of the California Government Code and Chapter 17.68 of the Tuolumne County Ordinance Code. Under those requirements, notification must be provided a minimum of 10 days prior to a meeting. Section 17.68.130 of the Tuolumne County Ordinance Code establishes the minimum distance for notifying the owners of property adjoining the site of a project to be considered by the Planning Commission. Those minimum distances meet or exceed the requirements of the California Government Code.

- F6. The Grand Jury finds that, at the three meetings it attended, there were insufficient numbers of agendas available to the public.

Response: We do not agree with this finding. Copies of the agendas and reports are mailed to applicants prior to the Planning Commission meeting and are posted on the County's website for public review and downloading. In order to reduce photocopying costs, a minimum number of copies of agendas and back-up materials are provided at each Planning Commission meeting for the public on the table near the entrance to the Board of Supervisors Chambers. The number of copies provided varies depending on the number of projects to be considered and the amount of input the Planning Staff has received regarding the projects during the review process. A photocopy machine is available and Staff makes additional copies of the materials if more members of the public attend than anticipated or if people request additional copies.

- F7. The Grand Jury finds that asking persons wishing to offer public comment to identify themselves in any manner is a violation of the Brown Act.

Response: We agree with this finding.

- F8. The Grand Jury finds that all public officials are required to attend ethics training and the Brown Act is part of the curriculum.

Response: We agree with this finding.

- F9. The Grand Jury finds that a three-minute time limit for public comment, although legal, is sometimes unreasonable and reflects neither the intent of the Brown Act nor the opinion of the California Attorney General.

Response: We agree that a three-minute time limit may be unreasonable for some development projects but that it may be reasonable for others. The Tuolumne County Planning Commission takes into account the number of items on an agenda to be considered, the number of people who wish to address the Commission for each item, and the nature of the item itself in determining whether to limit the time given to each speaker and the amount of that time. Through its adopted Procedural Rules for the Conduct of Public Hearings, the Planning Commission has not established a minimum time limit, such as three minutes, but does provide a reasonable amount of time for each speaker based on these factors.

- F10.** The Grand Jury finds that having someone sit near the lectern and wave a sign indicating the time remaining for public comment is unreasonable.

Response: *We do not agree with this finding. This is a practice that is used by the Board of Supervisors as well as the Planning Commission. Three signs are typically used in this process. The first notifies the speaker that there is one minute remaining and the second provides a 30 second notice. The third sign indicates that the allotted time for speaking has expired. Although this practice is more basic than the green, yellow and red light system recommended by the Grand Jury, the speaker is given the same notice so it has the same practical effect.*

Grand Jury Recommendations

- R1.** The Grand Jury recommends that, no later than December 31, 2016, the Board reinstate the Southern County Planning Commission, at a cost of approximately \$17,000 per year, with 5 members instead of 7, to serve as an advisory body for the Planning Commission.

Response: *This recommendation has not been implemented. The Board of Supervisors could reinstate the Southern Tuolumne County Planning Commission (STCPC); however, the STCPC would not be an advisory body to the Tuolumne County Planning Commission. Pursuant to Section 65101 (a) of the California Government Code, the Board of Supervisors may create "one or more planning commissions each of which shall report directly to" the Board of Supervisors. As such, the reinstated STCPC would have the same authority as it previously had within its geographic jurisdiction. Its authority would be the same as that of the Tuolumne County Planning Commission.*

- R2.** The Grand Jury recommends that by December 31, 2016 the Planning Commission broadcast its meetings live on the Internet.

Response: *This recommendation has not been implemented. Currently, the Board of Supervisors is the County's only body that broadcasts its meetings live on the Internet. That broadcast utilizes the Granicus program. There would be an additional cost for the Planning Commission meetings to be broadcast. Upon authorization by the Board of Supervisors, Community Resources Agency Staff would work with the County's Information Technology Division and Board Clerk to establish the process for broadcasting Planning Commission meetings.*

- R3.** The Grand Jury recommends that by December 31, 2016 the Board of Supervisors direct the Planning Commission to have video of past meetings posted on the County website.

Response: *This recommendation has not been implemented. As stated in the response to F3, there has been little demonstrated interest in the written minutes and audio recordings of past Planning Commission meetings so it is anticipated that there would be limited interest in posting videos of those meetings. A feature of the Granicus program is that it archives meetings. If the Board of Supervisors authorizes use of the Granicus program for broadcasting Planning Commission meetings, all future meetings would be archived and available for public review on the County's website.*

- R4.** The Grand Jury recommends that by December 31, 2016 Planning Commission meetings be broadcast with interactive capability.

Response: This recommendation has not been implemented. At this time, the Board of Supervisors meetings are broadcast live through the Granicus program but interactivity is not provided. The public policy of providing interactivity would need to be studied as well as the technical aspects of how to implement it. The cost associated with implementing an interactive system would also need to be addressed. If the Board of Supervisors implements an interactive meeting program, the Planning Commission would incorporate it into its procedural rules.

- R5. The Grand Jury recommends that by December 31, 2015, the Planning Commission post notice in the community calendar section of the local newspaper, public libraries, all County post offices, by mail to local senior centers, and on its live broadcasts when they become available.

Response: This recommendation has been partially implemented. Notices of the Planning Commission meetings are included in the community calendar section of the Union Democrat newspaper and are otherwise posted and mailed to individual property owners in accordance with the California Government Code and Tuolumne County Ordinance Code which exceed the requirements for posting under the Brown Act.

- R6. The Grand Jury recommends that, beginning with the next meeting, the Planning Commission makes sure that there are a sufficient number of agendas available to the public before each meeting starts.

Response: This recommendation has been implemented. A minimum of ten (10) copies of the agenda and back-up materials are provided at the table near the entrance to the Board of Supervisors Chambers for each Planning Commission meeting. The Planning Staff is continuing to provide additional copies for projects that have generated public interest during the application review process. The Planning Staff is also making additional copies of the materials if more members of the public are in attendance than anticipated.

- R7. The Grand Jury recommends that the Planning Commission immediately and permanently stop this practice and adhere to the Brown Act.

Response: This recommendation has been implemented. On August 26, 2013, County Administrator Craig Pedro received a cease and desist letter from a member of the public alleging that the open meeting provisions of the Ralph M. Brown Act were violated during the Planning Commission's meeting of August 21, 2013. The specific allegation was that speakers were advised that they were required to provide their names on the sign-in sheet at the podium when such sign-in forms are voluntary pursuant to the Brown Act. In accordance with Section 54960.2 of the California Government Code, on September 18, 2013, without admitting any violation of the Brown Act, the Planning Commission approved an unconditional commitment to cease, desist from, and not repeat the past action that was alleged in the complaint. The sign-in sheet for Planning Commission meetings has been modified to clearly state that speakers are not required to provide their names.

- R8. The Grand Jury recommends that all Planning Commission members complete the required ethics training, which includes the Brown Act as part of the curriculum, and each planning commissioner provide the Board of Supervisors with a copy of the training certificate.

Response: This recommendation has been implemented. The AB1234 Ethics Training is required to be taken every two (2) years. The training is traditionally provided by County Counsel in November of each year and is also provided on-line by the California Political Practices Commission. Planning Commissioners Pland, LaTorre, Baker and Frazer took the required training in 2014 and their Certificates of Completion have been submitted to the Board of Supervisors. Commissioners Rei and Przybla were appointed in January 2015 and will attend the County Counsel sponsored training in November 2015 or complete the training on-line at that time. Copies of their Certificates of Completion will be submitted to the Board of Supervisors.

- R9.** The Grand Jury recommends that time limits for public comment must be reasonable and thus adjusted upwards to five minutes or more when necessary to respect the intent of the Brown Act, based on criteria including but not limited to, the number of agenda items, the complexity of each item, the number of persons wishing to address each item, and the ability of the Planning Commission to end the meeting by 10:00 p.m.

Response: This recommendation has been implemented. The Planning Commission does take into account the number of items on an agenda to be considered, the number of people who wish to address the Commission for each item, and the nature of the item itself in determining whether to limit the time given to each speaker and the amount of that time. Through its adopted Procedural Rules for the Conduct of Public Hearings, the Planning Commission has not established a minimum time limit, such as five minutes, but does provide a reasonable amount of time for each speaker based on these factors.

- R10.** The Grand Jury recommends that the Planning Commission immediately stop this procedure and instead use the green, yellow and red light system as a tool to help speakers realize the time remaining for their public comment.

Response: This recommendation has not been implemented. The Planning Commission regularly meets in the Board of Supervisors Chambers which is not currently equipped with the recommended light system. If the Board of Supervisors directs the installation of the light system, the Planning Commission will utilize it.

Thank you for providing the opportunity to respond to the above findings and recommendations. Please do not hesitate to contact Community Resources Director Bev Shane if you have any questions regarding our responses.

Respectfully,

Richard Pland, Chair
Tuolumne County Planning Commission

Bev Shane, AICP
Community Resources Director

RD:bjs

cc: Tuolumne County Board of Supervisors
Craig Pedro, County Administrator
Sarah Carrillo, County Counsel

PLANNING COMMISSION COMMITTEE REPORTS

Let's Be Reasonable

INTRODUCTION

Each year the grand jury looks into the business of local government agencies and makes recommendations intended to improve service to the public because citizens want to be involved with decisions that affect their lives and see how their tax dollars are being spent. This Grand Jury chose to investigate the Tuolumne County Planning Commission (Planning Commission) because it does important work and all residents and visitors here are affected by its decisions: "...whatever affects one directly, affects all indirectly" *Letter from Birmingham Jail* [1]. The focus of this investigation is public participation in Planning Commission Meetings.

Webster's Dictionary defines "the public" as "a group of people having common interests...in a particular activity," and "participation" as "...to have a part or a share in something" [2]. So in this case, public participation means all those people interested in having some part in the decision-making activities of the Planning Commission. Exactly what part citizens should have in the business of modern democracies has been discussed for centuries.

Swiss political philosopher Jean-Jacques Rousseau suggests that our freedom can be protected only if government can cooperate on an equal basis with "citizens in a community where they themselves are sovereign" *The Social Contract*, late 1700s. In other words: government represents the people, it does not rule the people [3]. The Planning Commission exists to serve the public, and if it wants to do the best job possible, it should encourage public participation in its meetings because if more people have a greater voice in the decision-making process, then the Planning Commission will be better informed and can make better decisions.

The background section below explains how the Planning Commission works, the 2013 consolidation of the planning process, and public meeting law: including the Brown Act, notice, and what is known as "public comment." The Grand Jury, in the spirit of cooperation, then presents two reports: *Attendance* and *Public Comment*, intended to improve public participation in Planning Commission meetings. The Planning Commission is important, it has decision-making power, and this is how it works.

BACKGROUND

The Planning Commission

Established in the early 1960s, shortly after Tuolumne County (County) adopted its first zoning ordinance in 1959, the Planning Commission considers proposals for changes and permits involving land use and development in the County. And when making a decision, its goal is to balance the needs of the individual against the needs of all residents, while encouraging economic growth, and promoting proper stewardship of our natural resources.

The Planning Commission is comprised of seven members from various parts of the County. They are nominated and appointed from a pool of applicants by the Tuolumne County Board of Supervisors (Board). Applications for membership are available on the County website. Five members represent each of the County's supervisory districts, and two serve the public as at-large members (members who serve the public as a whole, not a particular district). Each member serves a four-year term; there are no term limits, and they are paid a stipend of \$50.00 per meeting.

The Planning Commission makes recommendations to the Board on General Plan amendments, zoning changes, planned-unit development permits, developer agreements, and tentative subdivision maps. And, it is the decision-making body for conditional use permits, site development permits, site review permits, and variances. Simply put, when it comes to land use and development in this county, these seven people have a lot of power.

But the land use and development decision-making process was not always this centralized; before the 2013 consolidation there were more local boards, committees, and commissions whose open meetings were available to any interested person.

The Consolidation

In August of 2011 the Board discussed cost-saving measures for the fiscal year 2011-2012, one of which was to reduce the number of planning commissions and design review committees in Tuolumne County. In March of 2012 the Board created the seven-member Planning Commissions and Committees Task Force (Task Force) consisting of one member from the Board of Supervisors, one Tuolumne County Planning Commissioner, one Area Planning

Commissioner, one member from the Design Review Committee, one member from the Tuolumne County Building Industry, one member from the Tuolumne County Business Council, and one member of the Agricultural Advisory Committee, to examine, identify, and recommend alternatives to the various commissions and committees in existence at that time.

The Task Force did just that; it reviewed 12 commissions and committees, then recommended retaining the Tuolumne County Planning Commission and eliminating all the design review committees and the Jamestown, Columbia, and Southern County (Groveland-Big Oak Flat) local planning commissions. It also advised the Board that if it did retain any of those local planning commissions, it should reduce the membership on each from seven to five.

In July 2013, the Board disbanded all design review committees, two planning advisory committees, and three area planning commissions, leaving the Planning Commission available to members of the public who may wish to participate in the local democratic process concerning land use and development in the County. The way these important meetings are conducted is governed by California law known as the Ralph M. Brown Act (Brown Act).

Public Meeting Law

The Brown Act

Adherence to the rules for public meetings is vital, because even small errors or omissions can, over time, cause problems for our local democracy. Planning Commission meetings are subject to the Brown Act, which establishes the requirements for meetings and hearings for commissions, boards, councils, special districts, and other public agencies or legislative bodies [4]. The intent of the Brown Act is to facilitate public participation.

For example, the Brown Act requires that all regular meetings be open to the public, and all persons be permitted to attend, anonymously, but even before the public can choose to attend a meeting, it needs to have proper notice that a meeting has been scheduled.

Notice

One way the public is given proper notice of an upcoming meeting of the Planning Commission is through the posting of agendas. They must contain a brief general description of each item to be discussed and the time and location of the meeting. Agendas for meetings and hearings must be posted in a location that is freely accessible to, and can be read by, members of

the public at any time at least 72 hours (including weekends) before a regular meeting [5]. Interested persons may also request personal notice of upcoming meetings.

Any person who has filed a written request for personal notice with the legislative body must be mailed notice. In the case of special meetings, notice may be given in any way deemed practical by that public agency [6]. In addition to proper notice of upcoming meetings, the Brown Act guarantees that all people at Planning Commission meetings may, subject to reasonable limitations, freely express themselves, through public comment.

Public Comment

The term “public comment” is used to describe the extremely important process through which members of the public may participate in government decision-making by speaking on matters being discussed at an open meeting of a legislative body.

The Brown Act guarantees that agendas for regular and special meetings provide the opportunity for public comment concerning any item on the agenda for that meeting, either before or during its consideration of that item. Further, every regular meeting must allow the public to comment on any subject under the jurisdiction of the body. The person making public comment need not be a resident of the jurisdiction, a registered voter, or even a citizen; she must simply be present, and, according to the Supreme Court of the United States, she must be allowed the opportunity to speak anonymously [7]. Public comment is free speech.

In 1960, about the time the Planning Commission was established, a Los Angeles city ordinance forbidding the distribution of any handbill which did not have the name and address of the person who prepared, distributed, or sponsored it, was ruled unconstitutional in *Talley v. California* by the Supreme Court of the United States, which reasoned in part that:

“Before the Revolutionary War colonial patriots frequently had to conceal their authorship...even *The Federalist Papers*, written in favor of the adoption of our Constitution, were published under fictitious names...It is plain that anonymity has sometimes been assumed for the most constructive purposes” [8].

Nothing can be more constructive, and more American, than anonymous free speech, particularly if it encourages public participation in the democratic process. Persons wishing to

participate through public comment must be allowed to speak and be heard, for a reasonable amount of time.

In the opinion of the California Attorney General, public agencies have the discretion to limit the time allowed for public comment on each issue, and for each speaker, relative to the number of agenda items, the complexity of each item, and the number of persons wishing to address each item. Public agencies must exercise care that these time limits are reasonable, and do not violate the public right to freedom of expression [9]. Thus, the Planning Commission must have good reasons for the time limits it imposes on persons making public comment.

And sometimes they do. One good reason for limiting the time each member of the public may speak is that the legislative body should be allowed to end its meeting and go home at a reasonable hour. In this case, the official contact list for the Planning Commission on the County website explains the details of when and where it meets, and tells the reader that “Planning Commission Business, between the Commission and Staff only, begins at 6:00 p.m., with the public hearing immediately following. The meetings will last no longer than 10:00 p.m.” [10]. The Planning Commission has the right to end its meetings at a reasonable hour, but it must balance that with the right of the public to exercise its right to free speech. This is a large part of why public meeting law exists: to ensure that our local government agencies encourage public comment in their everyday business of decision-making, and this is why the Grand Jury is concerned with public comment: it is a very important forum for free speech.

THE INVESTIGATION

During the course of this investigation the Grand Jury attended three Planning Commission meetings, witnesses were interviewed, and relevant documents were examined, including the *Community Resources Agency Annual Reports* of 2013 and 2014. The investigation focused on the centralization and consolidation of the planning process, public meeting law, and the related behavior of the Planning Commission at its meetings. The reports below discuss the following issues related to public participation in meetings:

- What can reasonably be done to mitigate negative effects of the consolidation in order to improve public participation at meetings,

- How the current practice for providing notice of upcoming meetings can reasonably be addressed in order to improve public participation at meetings, and
- Whether the limitations placed on public comment at Planning Commission meetings are reasonable.

Report #1: Attendance

DISCUSSION

Low Attendance

Planning Commission meetings are scheduled twice a month on the first and third Wednesdays. If there is nothing on the agenda, meetings are cancelled. The Grand Jury attended three Planning Commission meetings: at the first two regular planning meetings there were between zero and two members of the public in attendance. The third meeting was a conditional use permit meeting where notice was mailed to the affected residents. This meeting was attended by approximately fifteen members of the public. At all three meetings there was an insufficient number of agendas available to those in attendance five minutes prior to the start of each meeting.

More than fifty thousand people live in the Tuolumne County, so when only one or two show up for important meetings, it is reasonable to believe that attendance is low. One reason for such low attendance may be the consolidation of the planning process.

The Consolidation and the Southern County

According to the 2013 *Memorandum regarding Recommendations of the Commissions & Committees Task Force*, there are positive and negative effects of the consolidation.

Some of the positive effects are:

- Saving the taxpayers possibly more than \$125,000.00 per year, primarily due to a reduction in staff time and stipends paid to commissioners for travel and training (approximately \$17,000.00 of which came from the elimination of the Southern County Planning Commission),
- Improving the public perception that there is too much government “red tape” in processing simple development projects, such as a design review permit,

- Less difficulty in filling vacant positions on the various committees and commissions, and,
- Greater equality among the communities in the County because before the consolidation three communities had area commissions and the others did not.

Some of the negative effects include:

- A loss of local control for communities in the decision-making process because decisions are made by people who may not know or care about their community,
- Local area commissioners and committee members were more able to identify code violations and monitor the progress of bringing property into compliance,
- There are fewer opportunities available for citizens to become members on a commission, board, or committee,
- Local commissioners and committee members were more able to participate in and interact with local groups, such as Jamestown Promotion Club, Yosemite Chamber of Commerce, and the Columbia State Park Citizens Advisory Committee, and,
- There is less opportunity for citizens to participate in government decision-making at the community level because there are fewer forums available for the public to attend and discuss local issues through public comment [11].

The Southern County is Unique

The Grand Jury focused on the Southern County (Groveland-Big Oak Flat-Don Pedro), which represents approximately 13% of the population in the County. Including a retirement community in Pine Mountain Lake, it has become an especially unique area primarily because it is geographically separated from the rest of Tuolumne County. The people in this area have learned to take care of themselves; they have built a museum, a library, and a skate park with volunteer help and local donations. From the Southern County to downtown Sonora, it is a 45-minute drive on a good day, and the steep, winding roads can be much slower and more dangerous in the foggy, snowy, icy, winter months. To expect the citizens from the Southern County to drive to Sonora in the evening hours to attend a Planning Commission meeting is, quite frankly, a lot to ask.

The benefits of having a local planning commission in the Southern County are many. People in the Groveland-Big Oak Flat-Don Pedro area take pride in their community and are involved in matters that concern them. Unlike much of the rest of the County, particularly the areas east of Sonora up to Pinecrest and Strawberry, which are surrounded by Forest Service land and are therefore unable to be developed, the Southern County has many acres of private land that can be developed. In the past, before the consolidation, local commissioners from the Don Pedro area would travel to the meetings in Groveland, but when there was an agenda that concerned their immediate community, the other local commissioners would travel to Don Pedro to hold their meetings. A local planning commission in the Southern County would once again give those citizens local representation from people that live and work in their community. They would know these representatives and feel that they could talk to them, and cooperate with them in the decision-making process, and be respected when they have opposing views. This is grassroots democracy waiting to happen.

Live Broadcasts

The only way to view Planning Commission meetings is via tape-delayed video presented on the County's local cable access channel, Channel 8, but because they are tape-delayed video, the public is not even passively participating in the actual decision-making process. There are currently no Planning Commission video broadcasts available on the County website. Other County agencies have live broadcasts via the Internet using *Granicus* software. Live broadcasts of our Planning Commission meetings would not only give the public the opportunity to share in this process, but could allow the Planning Commission to post agendas of upcoming meetings on the broadcast, thereby expanding notice to the public.

Interactive Meetings

If the meetings were broadcast live with available programming they could be interactive, allowing a viewer to submit real time questions via the County/Planning website; it would be possible for persons to participate in Planning Commission meetings without having to physically attend. And, there may be a number of people in the County that have neither Internet access nor television service at home, but may have transportation to and from our local public libraries, senior centers, and Columbia College, all of which have computers available to the public.

At this time, online interactive software programs and services such as *Granicus* and *Cisco Webex*, are available for a monthly fee: some starting as low as \$49.00 per month. The cost may rise as more interactive contacts are made between persons watching the live broadcast and the Planning Commission [12]. A monthly subscription with *Webex* has no limit on how many meetings are involved and no time limit for meeting length. And, the account could be used by more than one County department as long as they do not use it at the same time [13].

Logistics of this operation may include one person running the meeting on the interactive computer, and a tech support person, perhaps someone already working for the County, available as needed. Procedural and financial challenges will exist with a new program like this; for example, the Planning Commission will have to establish reasonable guidelines and expectations for people that want to join in this interactive public forum. And of course, time and money spent are always legitimate concerns for taxpayers and County administration alike, but this is an investment in our future that should not only help citizens participate in Planning Commission meetings soon, but might also serve as an example for other agencies, here and elsewhere, to change their procedures in order to facilitate an improved democracy.

As more interactive public voices are heard, a broader perspective is shared and trust in government is built in the community because the decision-making process becomes increasingly transparent and accessible, allowing citizens a convenient way to contribute ideas and feedback on items being discussed and considered by the Planning Commission. This forum not only encourages public participation, but also provides the government staff with organized information that can be distributed to elected or appointed officials, giving them a deeper understanding of public opinion before they make important decision that affect everyone [14].

Interactivity is the right thing to do because it is where the technology is guiding us into the future. Now we can take advantage of contemporary technology and be better connected to the democratic process, and the public can better share its collective opinion with government agencies, like the Planning Commission. The consolidation has closed some avenues formerly available to the public for participation in the democratic process; interactivity will open some new ones.

More Effective Notice

Although the Brown Act establishes rules for public meetings, these rules represent the minimum requirements. Planning Commission agendas are posted 72 hours before meetings in two places: on the County website and on the outside of the County Administration building, located at 2 South Green Street in Sonora.

Modernizing the way the Planning Commission gives notice, including posting notice of upcoming meetings on live and interactive broadcasts, should increase participation in the decision-making process. There are some more traditional methods that will help, too. For those people that are not technologically savvy, but still get out and about, mailing agendas to the libraries, senior centers, and the post offices may be a reasonable thing to do.

Again, of course, this costs money, but it is a small price to pay to help protect the democracy that so many have fought for. Live broadcasts, interactive meetings, and expanded notice are reasonable ways for the Planning Commission to facilitate public participation.

Report #1: Attendance

FINDINGS, RECOMMENDATIONS, and RESPONSES

Finding #1: The Grand Jury finds that the elimination of the Southern County Planning Commission especially disenfranchises the Southern County area from the decision making process.

Recommendation #1: The Grand Jury recommends that, no later than December 31, 2016, the Board reinstate the Southern County Planning Commission, at a cost of approximately \$17,000.00 per year, with 5 members instead of 7, to serve as an advisory body for the Planning Commission.

Response #1: Board of Supervisors.

Finding #2: The Grand Jury finds that delayed broadcasts of Planning Commission meetings, only on cable Channel 8, does not adequately encourage public participation.

Recommendation #2: The Grand Jury recommends that by December 31, 2016 the Planning Commission broadcast its meetings live on the Internet.

Response #2: Board of Supervisors, Planning Commission, Director of the Community Resources Agency

Finding #3: The Grand Jury finds that not having archived meetings available for the public to view on the County website results in less public participation.

Recommendation #3: The Grand Jury recommends that by December 31, 2016 the Board of Supervisors direct the Planning Commission to have video of past meetings posted on the County website.

Response #3: Board of Supervisors, Planning Commission, Director of Community Resources Agency

Finding #4: The Grand Jury finds that interactive Planning Commission meetings may have a positive effect on public participation.

Recommendation #4: The Grand Jury recommends that by December 31, 2016 Planning Commission meetings be broadcast with interactive capability.

Response #4: Board of Supervisors, Director of Community Resources Agency, Planning Commission

Finding #5: The Grand Jury finds that the procedures currently used by the Planning Commission for giving notice of upcoming meetings is the minimum required by the Brown Act.

Recommendation #5: The Grand Jury recommends that by December 31, 2015, the Planning Commission post notice in the community calendar section of the local newspaper, public libraries, all County post offices, by mail to local senior centers, and on its live broadcasts when they become available.

Response #5: Board of Supervisors, Director of Community Resources Agency, Planning Commission.

Finding #6: The Grand Jury finds that, at the three meetings it attended, there were insufficient numbers of agendas available to the public.

Recommendation #6: The Grand Jury recommends that, beginning with the next meeting, the Planning Commission makes sure that there is a sufficient number of agendas available to the public before each meeting starts.

Response #6: Director of Community Resources Agency, Planning Commission

Report #2: Public Comment

DISCUSSION

The Planning Commission may have been doing some procedural things wrong without realizing it, and this can mislead both it and the public because

“A long habit of not thinking a thing wrong gives it a superficial appearance of being right” Thomas Paine, author of *The Federalist Papers* [15].

For example, the County conducts Brown Act seminars available to members of local public agencies. At one meeting, in violation of Brown Act rules and the United States Constitution, persons wishing to offer public comment were asked to identify themselves before speaking.

The Brown Act encourages the public to speak, and the Planning Commission should know that for the average person, public speaking can be a very intimidating experience, and so it must be reasonable in its procedures concerning public participation through public comment.

Most persons wishing to offer public comment before any public agency are probably not polished professional speakers. The whole scenario can be intimidating: it takes a lot of courage for someone to walk up to the lectern in front of an audience, and video cameras, and talk directly to the members of the Planning Commission.

As discussed, the Planning Commission has the right to end its meetings at a reasonable hour, like 10:00 p.m., and has the discretion to limit the time for public comment, based on certain criteria. However, lacking any apparent connection to these criteria for determining the reasonable time limits for public comments, at a meeting starting at 6:00 p.m., with more than a dozen people in attendance to observe the decision-making process on an important land use

issue directly affecting their lives, and with only approximately eight people wishing to speak, the Planning Commission put a three-minute time limit on each speaker. Many of these speakers ran just short of finishing on time and left the lectern looking frustrated.

In addition, a person sitting at the table right next to the lectern waved a sign indicating the time remaining in her allotted three minutes, and if the speaker continued beyond the time on the sign, the Planning Commission would interrupt and instruct the speaker to stop talking.

The Grand Jury finds, recommends, and requests responses as follows:

Report #2: Public Comment

FINDINGS, RECOMMENDATIONS, and RESPONSES

Finding #7: The Grand Jury finds that asking persons wishing to offer public comment to identify themselves in any manner is a violation of the Brown Act.

Recommendation #7: The Grand Jury recommends that the Planning Commission immediately and permanently stop this practice and adhere to the Brown Act.

Response #7: Board of Supervisors, Director of Community Resources Agency, Planning Commission.

Finding #8: The Grand Jury finds that all public officials are required to attend ethics training and the Brown Act is part of the curriculum.

Recommendation #8: The Grand Jury recommends that all Planning Commission members complete the required ethics training, which includes the Brown Act as part of the curriculum, and each planning commissioner provide the Board of Supervisors with a copy of the training certificate.

Response #8: Board of Supervisors, Planning Commission

Finding #9: The Grand Jury finds that a three-minute time limit for public comment, although legal, is sometimes unreasonable and reflects neither the intent of the Brown Act nor the opinion of the California Attorney General.

Recommendation #9: The Grand Jury recommends that time limits for public comment must be reasonable and thus adjusted upwards to five minutes or more when necessary to respect the

intent of the Brown Act, based on criteria including but not limited to, the number of agenda items, the complexity of each item, the number of persons wishing to address each item, and the ability of the Planning Commission to end the meeting by 10:00 p.m.

Response #9: Board of Supervisors, Director of Community Resources Agency, Planning Commission

Finding #10: The Grand Jury finds that having someone sit near the lectern and wave a sign indicating the time remaining for public comment is unreasonable.

Recommendation #10: The Grand Jury recommends that the Planning Commission immediately stop this procedure and instead use the green, yellow and red light system as a tool to help speakers realize the time remaining for their public comment.

Response #10: Board of Supervisors, Director of Community Resources Agency, Planning Commission

CONCLUSION

Public meetings are intended to hear the voice of the people. The Planning Commission has to expect and respect such a voice because we are all affected, directly or indirectly, by its decisions, and the voice that is not heard is not part of this decision-making process. Increased notice and visual technology are reasonable and viable recommendations intended to improve public participation in local government, and Tuolumne County can become a leader in this area. This would reflect well on our County agencies because it can help more local citizens share in the democratic process through increased access, a better understanding of County government, and greater familiarity with its elected and appointed officials, who would then be able to make better decisions because they could hear more input and opinion from the public.

Throughout American history, great political leaders like Jean-Jacques Rousseau, Martin Luther King Jr., Thomas Paine, and Benjamin Franklin have believed that government agencies must be reasonable in their interaction with the public, and must do so in a way that facilitates public participation in the democratic process; that is what this investigation is all about.

“So convenient a thing it is to be a reasonable creature, since it enables one to find
or make a reason for everything one has a mind to do” *Benjamin*
Franklin National Memorial, Philadelphia, Pennsylvania [16].

Being reasonable is such an important concept that the Brown Act, the California Attorney General, and Supreme Court of the United States expressly mandate that government agencies must have good reasons for what they do. That said, even when some procedures are found to need reasonable change, it is not forgotten that the Planning Commission performs an important public service for all those connected to this County.

BIBLIOGRAPHY

1. Martin Luther King Jr. *Letter from Birmingham Jail*. April 16, 1963. www.liberationcurriculum.org. Online: April 24, 2015.
2. Merriam-Webster Inc. *Merriam-Webster's Deluxe Dictionary: Tenth Collegiate Edition*. New York: The Reader's Digest Association, Inc., 1998.
3. *Stanford Encyclopedia of Philosophy*: First published Monday September 27, 2010. <http://www.tentmaker.org> Quotes of Free Press. Online: April 26, 2015.
4. California Government Code Section 54950, et seq.
5. California Government Code Section 54950, et seq.
6. California Government Code Section 54950, et seq., 78 Ops. Cal. Atty. Gen. 327 (1995).
7. California Government Code Section 54594.3 (a).
8. *Talley v. California*, page 65 U.S. 60 (1960).
9. 75 Ops. Cal. Atty. Gen. 89 (1992).
10. *HANDOUTS \ Planning Division \ Rosters & People Lists \ TCPC Roster 07-2013.doc*. Online: May 13, 2015.
11. *Memorandum regarding Recommendations of the Commissions & Committees Taskforce*, from Community Resources Agency to Board of Supervisors: January 2013.
12. 2014 Granicus, Inc. 600 Harrison Street, Suite 120, San Francisco, CA. 94107. www.granicus.com. Granicus sales: (877) 889-5495. Online: May 19, 2015.
13. Cisco: <http://www.webex.com>. Cisco sales: (877) 509-3239. Online May 23, 2015
14. 2014 Granicus, Inc. Online: May 19, 2015.
15. Thomas Paine Quotes, *Brainy Quote*, Online: April 30, 2015.
16. *Stanford Encyclopedia of Philosophy*. Online: April 25, 2015.



Unapproved COMMUNITY RESOURCES AGENCY

BEV SHANE, AICP
Director

Administration - Building - County Surveyor - Engineering - Environmental Health - Fleet Services - GIS - Housing - Planning - Roads - Solid Waste

TUOLUMNE COUNTY PLANNING COMMISSION MEETING MINUTES July 1, 2015

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PRESENT: Chairman Dick Pland, Vice Chair Jerry Baker and Commissioners Charlotte Frazier, Cole Przybyla, Peter Rei and John LaTorre

ABSENT: Commissioner Robert Fulcher

STAFF: Bev Shane, Community Resources Director, Sirena Waldman, Department Support Technician

CALL TO ORDER/WELCOME:

Chairman Pland called the meeting of July 1, 2015, to order at 6:00 p.m. and led the Commission and audience members in the Pledge of Allegiance.

PLANNING COMMISSION BUSINESS:

1. Reports:

Chairman Pland asked if Staff had anything to report.

Ms. Shane advised the Commission that there are no items for the July 15 meeting; therefore, it will be cancelled. She described an excerpt from the Tuolumne County 2014-2015 Grand Jury Report that reviewed the Tuolumne County Planning Commission. She said the Commission is required to respond to the comments and any recommendations that the Grand Jury Report provides. She said the Commissioners should email their responses to her two weeks prior to the August 5th meeting. She said she will compile a response for the Commission to review and approve.

Chairman Pland asked if the Board of Supervisors approves the Commission's response.

Ms. Shane said the Board of Supervisors would review the Commission's response and possibly add additional comments.

Commissioner LaTorre asked if the Board of Supervisors would be interested in viewing their individual responses prior to approving the Commission's response.

Ms. Shane described the review process and how the Commission's response would be approved.

Chairman Pland asked if any of the Commissioners had anything to report.

The Commissioners had nothing to report at this time.

2. Report from the Board of Supervisors Planning Committee Representative

Chairman Pland asked if the Commission Representative had anything to report.

Vice Chair Baker said that the Board of Supervisors Planning Committee (BOSPC) did not have a meeting, and therefore, he had nothing to report.

3. Report from the Agricultural Advisory Committee Representative

Chairman Pland noted that the Commission's Representative Commissioner Fulcher was absent.

4. Minutes of the meeting of May 6, 2015

Chairman Pland asked if there were any changes or corrections to the Minutes of the meeting of May 6, 2015.

It was moved by Vice Chair Baker and seconded by Commissioner Rei to approve the Minutes of the meeting of May 6, 2015, as presented.

Chairman Pland called for the vote: Ayes: 5; Noes: 0; Abstain: 1

Motion carried 5 – 0 – 1, with Commissioner Fulcher being absent and Commissioner Frazier abstaining because she had not attended the May 6th meeting.

PUBLIC COMMENT:

Chairman Pland opened the 15 minute public comment period, during which anyone wishing to could come forward and address the Commission on any item not on the Agenda. Seeing no one who wished to address the Commission at this time, he closed the public comment period.

PUBLIC HEARING:

NEW ITEM:

1. GREEN,

Ordinance for Zone Change RZ15-004 to rezone a 4.3± acre portion of a 41.8± acre parcel from AE-37 (Exclusive Agricultural, Thirty Seven Acre Minimum) to O (Open Space) under Title 17 of the Tuolumne County Ordinance Code.

The property is located on 11050 South Ponderosa Way, approximately ½ mile southeast of the intersection of State Highway 120 and South Ponderosa Way, east of Groveland. A portion of Section 26, Township 1 South, Range 16 East, Mount Diablo Baseline and Meridian. Assessor's Parcel Number 66-171-08. Supervisor District 4.

Ms. Shane described the project and its location to the Commissioners and said the Greens are requesting a zone change for a portion of their property consisting of 4.3 acres from Exclusive Agricultural, Thirty Seven Acre Minimum (AE-37) to Open Space (O), to facilitate a lot line adjustment with their neighbor to the east, Assessor's Parcel Number 66-171-39. The neighboring parcel consists of 15.8 acres and the lot line adjustment would transfer the 4.3 acres proposed for Open Space zoning creating a 20.1 acre parcel. She said the Open Space is being requested because the project site is zoned AE-37 and the property to which the 4.3 acres would be transferred is zoned A-20. Under the zoning ordinance, another primary zoning district cannot be created through a lot line adjustment, with the exception of Open Space. She said the owners have requested Open Space in order to expedite this process. She said adjoining property owners were notified of the proposed change and two responses in favor of the project were received.

Chairman Pland asked if there were any proponents wishing to speak. Seeing no one, he asked if anyone wished to speak in opposition to the project. Seeing no one, he asked if anyone wished to speak neither for nor against the project. Seeing no one, he closed the public hearing and referred the item to the Commission.

It was moved by Vice Chair Baker and seconded by Commissioner LaTorre to recommend approval of Zone Change RZ15-004, based on Findings A through D.

Chairman Pland called for the Vote: Ayes 6; Noes 0; Abstain 0.

Motion carried 6 – 0 – 0, with Commissioner Fulcher being absent

2. SOUTH SHORE LAKE TULLOCH,

1. Ordinance for Zone Change RZ14-012 to rezone a 1.9± acre area of Assessor's Parcel Number 63-400-19 from A-10 (General Agricultural, Ten-Acre Minimum) to O (Open Space) under Title 17 of the Tuolumne County Ordinance Code.
2. Conditional Use Permit CUP14-011 to recognize and allow existing docks, pilings, retaining walls, and walkways on parcels fronting on Lake Tulloch and future construction, maintenance and expansion of such facilities within the proposed O (Open Space) zoning district.
3. Vesting Tentative Subdivision Map T14-027 to adjust 1.9± acre from a 16.79± acre parcel to 12 adjacent parcels as follows:

Assessor's Parcel Number	Existing Acreage	Proposed Acreage
63-360-05	0.44±	0.56±
63-360-06	0.48±	0.61±
63-360-07	0.49±	0.62±
63-360-08	0.58±	0.75±
63-360-21	0.82±	0.93±
63-360-23	0.48±	0.59±
63-360-11	0.46±	0.64±
63-360-12	0.44±	0.58±
63-360-13	0.35±	0.55±
63-360-14	0.28±	0.49±
63-360-15	0.26±	0.47±
63-360-17	0.40±	0.57±
63-400-22	16.79±	14.91±

4. Variance VAR14-002 to allow Vesting Tentative Subdivision Map T14-027 to be reviewed according to the standards required for a Lot Line Adjustment pursuant to Chapter 16.09 of the Tuolumne County Ordinance Code (TCOC) rather than a Subdivision Map subject to Chapter 16.26 since the number of existing parcels will not be increased.

The project site includes the following thirteen parcels:

Situs Address	Assessor's Parcel Number	Owner	Current Zoning	Current General Plan Land Use Designation
14527 Pioneer Circle	63-360-05	Gadway, Stanley D Tr	R-1	LDR
14515 Pioneer Circle	63-360-06	Darhrmann, Dieter 1/2	R-1	LDR
14503 Pioneer Circle	63-360-07	SLSDS LLC	R-1	LDR
14491 Pioneer Circle	63-360-08	Simpson, Jimmy L 1/4	R-1	LDR
14466 Tulloch Road	63-360-21	Bailo, Robert J Tr	R-1	LDR
14474 Tulloch Road	63-360-23	Gil, Denise M	R-1	LDR
14480 Tulloch Road	63-360-11	Poston, Charles D Tr	R-1	LDR
14490 Tulloch Road	63-360-12	Shannon, Randall T Tr	R-1	LDR
14500 Tulloch Road	63-360-13	Shannon, Randall T Tr	R-1	LDR
14510 Tulloch Road	63-360-14	Shannon, Randall T Tr	R-1	LDR
14520 Tulloch Road	63-360-15	Bowes, Janet L., et al.	R-1	LDR
14540 Tulloch Road	63-360-17	Wittrup, Larry A Tr	R-1	LDR
No address	63-400-22	Richardson, Roland 1/2	A-10	RR

The subject parcels are located on the southern edge of Lake Tulloch adjacent to the Black Jack Bluffs Subdivision. APN 63-400-19 is Lot 37A1 of Black Jack Bluffs Unit 2. A portion of Section 1, Township 1 South, Range 12 East, and Section 6, Township 1 South, Range 13 East Mount Diablo Baseline.

Ms. Shane described the project and its location to the Commissioners and said that Roland Richardson and Ronald Gene Salmon own a 16.79 acre parcel that is located on the South Shore of Lake Tulloch next to the Black Jack Bluff subdivision. She said over the years 10 of the 12 adjacent parcels have constructed boat docks on the Richardson and Salmon property. She described an aerial photo that illustrates the property lines and locations of boat docks and other structures built over property lines and said that the proposed project would correct this situation. She said the Tentative Subdivision Map would facilitate adjusting 1.9 acres from the Richards/Salmon property to the 12 adjacent parcels. She said they have asked for Open Space zoning for the property to be transferred to other owners. She said boat docks are a conditional use in Open Space; therefore, a Conditional Use Permit is being requested to allow the existing docks to remain and allow for future modifications and construction. She said there is a provision in the Land Division Ordinance that allows for a variance for a Vesting Tentative Subdivision Map to be reviewed according to the standards required for a lot line adjustment. She said adjoining property owners were contacted and three negative responses were received. She said the commenters were opposed to new construction and may not have understood the project. She said this project is to recognize what already exists on the parcels. She said that two supportive responses were received from adjoining property owners. She said an email was received from one of the property owners involved in the project that raised concerns about possible grading taking place on an adjoining property. Ms. Shane said there was a grading permit issued in 2012 to correct grading problems on the property. She said that an inspection of the property will take place prior to the Board of Supervisors meeting on July 21st.

Ms. Shane said the applicant's representative, Land and Structure, has advised that there's will be a change in the Open Space and it will extend a slight amount further to the west and fill in an additional space across parcel Assessor's Parcel number 67-360-27.

Commissioner Rei asked Ms. Shane if State law would allow a lot line adjustment if we did not have a limitation for lot line adjustments in the local ordinance.

Ms. Shane explained that it would.

Commissioner Rei asked if the Conditional Use Permit would simplify the process for future boat docks to be permitted.

Ms. Shane said that the Conditional Use Permit would allow for future boat docks to be built without having to apply for individual use permits.

Vice Chair Baker asked if the Conditional Use Permit entitle the property owners to have docks or would they need other permits.

Ms. Shane said that granting the Conditional Use Permit would streamline the process by recognizing what is already there and would allow future improvements. The applicant would need to apply for a building permit and obtain approval from Tri-Dam. She said there are safeguards in the Conditions of Approval that the applicants will still have to meet.

Chairman Pland asked if Mr. Richardson and Mr. Salmon owned the land and how it evolved that docks were built on their property.

Ms. Shane said the property was under water and many of the docks were built without permits. She said each boat dock will have to be permitted as part of the Conditional Use Permit.

Chairman Pland opened the public hearing and called for any proponents of the project.

Richard James, Associate Land Surveyor at Land & Structure, introduced himself as the representative of the South Shore Lake Tulloch project and said that he would be willing to answer any questions from the Commissioners.

None of the Commissioners had any questions for Mr. James.

Chairman Pland asked if there were any other proponents wishing to speak.

Judy Shannon introduced herself as one of the applicants and said that she owns three parcels. She said Mr. Richardson and Mr. Salmon would like to transfer the property to remove the liability of ownership. She said this would increase their property values thus increasing the taxes paid.

Chairman Pland asked if there were any other proponents wishing to speak. Seeing no one, he asked if anyone wished to speak in opposition to the project. Seeing no one, he asked if anyone wished to speak neither for nor against concerning the project. Seeing no one, he closed the public hearing and referred the item to the Commission.

It was moved by Commissioner Frazier and seconded by Commissioner Przybyla to approve Conditional Use Permit CUP14-011, based on Findings A through G and subject to Conditions 1-18 and recommend approval of the proposed Zone Change RZ14-012, based on Findings A through D, Vesting Tentative Subdivision Map T14-027, based on the Findings A through D, and subject to Conditions 1 and 2 and Variance VAR14-002, based on Findings A through E.

Chairman Pland called for the Vote: Ayes 6; Noes, 0; Abstain, 0,.

Motion carried 6 – 0 – 0, with Commissioner Fulcher being absent.

ADJOURNMENT:

Chairman Pland adjourned the meeting at 6:25 p.m..

Respectfully,

Bev Shane, AICP
Community Resources Director

BJS:sw

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